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ABSTRACT

This paper reviews State constitutions and State laws providing for race equity in education. Results of a comprehensive survey of constitutions and statutes reveal a substantial State commitment to the goal of education equity. Constitutional provisions in an overwhelming number of States mirror the requirements of the Federal equal protection clause. Even where the State constitutional provisions are markedly different in terminology, State courts have construed them to be equivalent to or to exceed the Federal standard. In addition, most States have expressly prohibited race discrimination or race segregation in education. Virtually every State has some kind of statute on race discrimination or segregation in schools. Some of these prohibit such inequity in "places of public accommodations," expressly or implicitly including schools in the definition. Others have provisions in the State education code. Some States adopted policies before the Federal government, and some have requirements that are stricter than those of the Federal government's. Some States, for example, make unintentional racial imbalance a condition that must be corrected. The overall picture for the States is one of great variety. (Author/GC)

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STATE CIVIL RIGHTS LAWS

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STATE CIVIL RIGHTS LAWS

LEC-83-16

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ABSTRACT

This paper by Belsches-Simmons reviews state constitutions and state laws providing for race equity in education. Results of a comprehensive survey of state constitutions and statutes reveal a substantial state commitment to the goal of education equity. Constitutional provisions in an overwhelming number of states mirror the requirements of the federal equal protection clause. Even where the state constitutional provisions are markedly different in terminology, state courts have construed them to be equivalent to or to exceed the federal standard. In addition, most states have expressly prohibited race discrimination or race segregation in education. Virtually every state has some kind of statute on race discrimination or segregation in schools. Some of these prohibit such inequity in "places of public accommodations," expressly or implicitly including schools in the definition. Others have provisions in the state education code. Some states adopted policies before the federal government, and some have requirements that are stricter than those of the federal government's. Some states, for example, make unintentional racial imbalance a condition that must be corrected. The overall picture for the states is one of great variety.

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STATE CIVIL RIGHTS LAWS

by Grace Belsches-Simmons/*\
September 1983

INTRODUCTION

Scope of Paper

What is the state commitment to civil rights? Conventional wisdom holds that there is no commitment; that states are happy to leave equity in education to the federal government and local school districts. But is the conventional wisdom correct? The answer seems to be no. Almost all states have enacted laws which require or are interpreted to require educational equity. Some have adopted laws stronger than any federal law, for example, making racial imbalance, the de facto segregation of schools, illegal. No federal law requires this kind of response from the states. Other states enacted civil rights laws dealing with racial discrimination long before the Civil Rights Act of 1964.

States could meet major equity requirements in constitutions and federal law with a state board regulation policy statement. The existence of a legislative mandate is evidence that states have found it desirable to formalize a policy of non-discrimination and that the goal is politically acceptable.

This paper reviews and analyzes state civil rights laws which protect people from deprivation of rights based on race, national origin, and ancestry. Excerpts of these laws appear in the appendices. Discussion of civil rights laws based on sex, handicap, and religion will be reserved for future monographs.

A state court noted, at the turn of the century, that civil rights were those "which are the outgrowth of civilization, which arise from the needs of civil as opposed to barbaric communities, and are given, defined, and circumscribed by such positive laws, enacted by such communities as are necessary to the maintenance of organized government."/1\ Fundamentally, the civil rights under discussion here are those which developed because of the peculiar social-economic history of the United States. These laws are designed to ensure freedom from the biased treatment historically accorded members of racial minorities.

These civil rights laws inform members of a defined class of their rights, and establish an opportunity for redress in the face of specific harms. They also put others on notice of a duty to act or not to act in their dealings with members of the protected

class. In most laws, breach of the duty will lead to civil or criminal liability, court or administrative redress for injuries suffered.

There are several types of state civil rights laws. Many resemble federal constitutional and legal mandates. State constitutions often contain language similar to the the Bill of Rights to the United States Constitution. These enumerate the civil rights of citizens, and define the relationship between people and government. Their protection is extended to all the people in the nation, even noncitizens.

The Federal Model

In recent decades, there has been much emphasis on the federal obligation to ensure the civil rights of historically deprived groups. Most people are familiar with the federal model; however, a quick review is necessary here as some states follow the federal example closely.

Federal activity has occurred on two fronts: courts and Congress. In interpreting the equal protection clause of the fourteenth amendment to the United States Constitution, the United States Supreme Court has labeled certain classifications "suspect." Classifications based on race, color, national origin and ancestry fall into this category. In equal protection analysis, suspect classes are entitled to the highest level of judicial scrutiny. Thus, in order for state action affecting suspect classes to be upheld, the action must have a compelling state purpose. In race discrimination cases, seldom does the state win when this analysis is applied./2\ The fourteenth amendment has played a significant role in ensuring equal treatment in education. It was the Supreme Court's application of equal protection analysis to racially separate schools in Brown v. Board of Education/3\ which ushered in the era of school desegregation. Since then, the fourteenth amendment has been the consitutional basis for plaintiffs challenging race discrimination in the schools.

Following closely on the heels of the judiciary's development of principles of equal protection, was congressional action in response to inequity. A significant amount of this legislation has created rights for students and teachers. Federal involvement in civil rights in education was precipitated, in part, by the reluctance of states in the post-Brown era to ensure that the dual education system was eradicated, and to compensate for the absence of adequate civil rights enforcement on the local level.

The earliest and most comprehensive legislation passed ten years after Brown was the Civil Rights Act of 1964. Title VI of this law/4\ represents the federal government's most serious attempt to end race discrimination in education. The statute prohibits discrimination on the basis of race, color or national origin in

any program or activity receiving federal financial assistance. Employees are excluded from Title VI, except where the objective of federal assistance is to provide employment, such as employment of trainees under federally-funded training programs./5\ A private right of action is implied under Title VI. However the most effective sanction, fund withholding, is available only when a federal enforcement agency is involved as a plaintiff in the litigation.

Title VI complements the fourteenth amendement by providing new sanctions for old grievances. Since passage of Title VI, plaintiffs are able to wield a double-edged sword when challenging discriminatory practies. School authorities may find themselves not only under court supervision because of the success of an equal protection claim; but also, in danger of losing federal funds under Title VI.

The fourteenth amendment and Title VI figure most frequently in cases of unlawful segregation in the schools and racial discrimination in the provision of education services. These laws alone would have revolutionized equity requirements in public schools. However, despite this extensive federal involvement in the civil rights of students, the states, and not the federal government retain primary responsibility for the delivery of education services. This fact, coupled with recent efforts to pare down federal involvement in education, highlights the growing importance of state civil rights laws to education.

Methodology

Civil rights data was compiled by the staff of the Law and Education Center at the Education Commission of the States. In the first stage, we analyzed constitution and statutes of the fifty states, U.S. territories and the District of Columbia. Fifty-five jurisdictions were analyzed; the material is collectively referred to as "fifty-state" data.

In the second stage of our research, we sent a profile in each jurisdiction to two representatives within the state for review. One set was sent to an attorney in the state Attorney General's office; the other was sent to an equal education opportunity office in the state department of education. Comments from these sources have been incorporated into the profiles.

Some case law discussion appears in the charts where necessary to clarify Law Center interpretations of state law. We have not included administrative interpretations, opinions, orders or regulations designed to implement and complement state statutes, such as the regulations of the Department of Education or opinions

of the state attorney general. Although these represent a significant body of law which complete the portrait of the state approach to civil rights, they are not included in this study because of physical inaccessibility.

STATE CIVIL RIGHTS LAWS

State Constitutions

Constitutional rights reflect the most fundamental notions about government that a citizenry can develop. This philosophical significance of Constitutional rights makes them extremely important. Also, of course, they generally endure for a longer time, because of more rigorous rules for amendement of constitutions, compared to statutes.

Several questions were researched for each state constitution. These include constitutional prohibitions against discrimination based on race, sex, language ability and religion; prohibitions against special legislation, and other provisions which were identified to prevent discrimination in education. Also researched were conscientious objection provisions which could allow a parent to avoid desegregation because of beliefs against integrated education.

The equal protection clause and the state education clause are reproduced in the appendices, in Tables One and Two. The equal protection clause is often the basis for state court opinions in race discrimination cases. Due to the similarity of these clauses to the federal equal protection clause, state courts tend to borrow from extensive federal precedent in interpreting state constitutional provisions. Thus, development of equal protection analysis on the state level has closely mirrored federal interpretation of the fourteenth amendment. Virtually all state courts have adopted the federal standard of the strict judicial scrutiny for suspect classifications. Only Idaho refuses to adopt the U.S. Supreme Court's analysis of discrimination under the equal protection clause./6\ As a result in Idaho a denial of equal protection is upheld if justified by a rational basis. In such cases, the state almost always wins.

The general education clause also has a potential for assuring equity. As far as reported litigation goes, however, they have not been used much for this purpose. There are some exceptions. For example, the Iowa constitution mandates that: "The Board of Education shall provide for the education of all the youths of the State . . . ."/7\ As early as 1868 the Iowa Supreme Court construed this to forbid race discrimination in the public schools./8\

Table Three shows the state constitutions which specifically prohibit race discrimination. Twenty-four states have provisions in the state constitution which, in addition to the state equal protection clause, prohibit discrimination based on race. Ten of these states specifically prohibit discrimination based on race in the public schools./9\ An example is Hawaii where the education new clause requires that "[t]here shall be no segregation in

public educational institutions because of race."/10\

These provisions enable individuals to use the state constitution to challenge segregation and discrimination. Still, most cases are based on federal law, not because federal law is superior, but because plaintiffs and their lawyers continue to believe that federal courts will be more responsive to allegations of segregation or inequity in the schools.

State Statutes

The survey of state statutes revealed seven general categories of civil rights laws. They include (1) express prohibitions against discrimination in education; (2) express prohibitions against discrimination in public agencies; (3) general prohibitions against discrimination in public accommodations; (4) declarations of civil rights; (5) declarations of public policy; (6) patently discriminatory laws, and (7) affirmative (implementation) statutes. Each of these categories will be discussed separately.

Express Prohibitions Against Discrimination in Education

Twenty-five states have statutes which specifically outlaw discrimination in education./11\ They vary in their terms, but may be grouped into two categories. The first prohibits discrimination in any education related activity. Montana's statute is exemplary:

> It is an unlawful discriminatory practice for an educational institution: (1) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution because of race, creed . . . color, sex or national origin, unless based on reasonable grounds . . . ./12\

Discrimination in admissions and in post-matriculation activities are specifically considered. The student is entitled to fair treatment not only in access to the institution, but also in academic and other school-sponsored activities. Among state civil rights laws these statutes provide the most comprehensive coverage for education.

The second type of state statute also prohibits discrimination in education, but is limited to access-related discrimination. The Oklahoma statute provides that "[s]egregation of children in the public schools of the state of Oklahoma on account of race, national origin, or color is prohibited."/13\ These laws are concerned only with equal access to the institution. No attention

is given to discriminatory practices and policies after admission, which may also deny or limit full participation in a unitary school system.

Express Prohibitions Against Discrimination in Public Agencies

The Alaska Code provides:

> It is unlawful for the state or any of its political subdivisions:
> (1) to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, sex, color or national origin;
> (2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld or denied to a person of a certain race, sex, color or national origin or that the patronage of a person belonging to a particular race, creed sex, color or national origin is unwelcome, not desired or solicited./14\

Although the application of these provisions to education is not express, the inclusion of public schools (as public agencies) can easily be construed. Generally, prohibitions in these statutes concentrate on access-related issues, and therefore provide a lesser degree of protection than the broad express prohibitions against discrimination in education./15\ A contrast to the Alaska approach is that employed under the Louisiana statute which requires executive agencies receiving federal block grants to submit a plan ensuring that funds will be dispersed in a nondiscriminatory manner./16\ This statute creates no individual rights, and contains no sanctions.

General Prohibitions Against Discrimination in Public Accommodations

Thirty-five states have civil rights laws which guarantee access to places of public accommodation. A major issue in interpreting these statutes is whether education institutions are places of public accommodation. Even where the statute does not mention schools, Law Center staff considered public schools to be both "public" and "accommodations" and so should be covered by these

statutes. No state expressly excludes schools in its definition of a place of public accommodation.

The issue is authoritatively resolved in the seven states that include schools in the definition of a place of public accommodation. For example, in Washington, a place of public accommodation includes "any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps . . . ."/17\ Sometimes legislative intent to include schools is strongly implied by other language. In Utah, for instance, a place of public accommodation included "any place . . . [that] recieves any substantial government subsidy or support."/18\ Public schools are obviously included in this definition. Similar language appears in the public accommodations statutes of Iowa, Kentucky, Missouri, Oregon, Tennessee, and Utah./19\ However, the majority of states leave the definition open.

Where state statutes fail indicate whether schools are included under the term "public accommodations," judicial interpretation is needed to resolve the issue. Some courts have addressed the question. In New Mexico, a place of public accommodation includes "any establishment that provides or offers its services, facilities, accommodations or goods to the public . . . ."/20\ It does not mention schools. The New Mexico Supreme Court has held that this definition did not encompass the University of New Mexico's administration of academic programs. The New Mexico court did not consider the application of the statute to access-related discrimination, and indeed, suggested that the question remains open. However, as there is no other substantive legislation dealing with civil rights, this interpretation may leave students in New Mexico without any civil rights protection under state law./21\

In Reed v. Hollywood Professional School,/22\ a California lower court held that the public accommodations law was not violated by private drama school when it refused its services to a black child. The California court based its decision on the common law roots of all public accommodations laws. At common law, the term referred to innkeepers, public carriers, and places of public amusement. These service oriented businesses were held to a higher degree of responsibility than other business people. Thus, they were required to allow everyone the use of their premises except under conditions where all would be refused (drunkenness, for example).

But in the more than a hundred years since the first of these laws was codified in Massachusetts, the definition of a public accommodation has expanded many times over. The common law grows; it changes as conditions change. The original narrow definition, created when schools were not as prevasive as they now are, has little precedential value today. This conclusion is bolstered by the fact that the California legislature reacted to the judicial

limitation of its public accommodations law by enacting a broader law which was not subject to the very strict construction adopted by the local court./23\

In Oklahoma the definition of a place of public accommodations includes any institution "supported by government funds" and thus clearly includes public schools. The state supreme court held that the statute also included private schools which solicit students from the general public./24\

The second major interpretative issue in state public accommodations laws is the scope of coverage. In Maine:

> "The opportunity for every individual to have equal access to places of public accomodation without discrimination because of race or color, sex, physical or mental handicap, religion, ancestry or national origin is recognized and declared to be a civil right."/25\

This statute is concerned only with equal access to places of public accommodation. To the extent that education is included, the student is provided lesser coverage than under statutes expressly prohibiting discrimination in education or under broad public accomodations laws, Wyoming's public accommodation law broadly includes both access and post admission discrimination. It provides:

> All persons of good deportment within the jurisdiction of this state shall be entitled to the full and equal enjoyment of all accommodations, advantages, facilities and privileges of all places or agencies which are public in nature, or which invite the patronage of the public, without any distinction, discrimination or restriction on account of race, sex, color or national origin./26\

Declarations of Civil Rights

Some laws only declare a right, without giving details on enforcement or sanctions. The Montana code provides: "[t]he right to be free from discrimination because of race, creed, color, sex, or national origin is recognized as and declared to be a civil right."/27\ These declarations, standing alone, fulfill only one purpose of civil rights laws; informing members of the protected classes of a right. These statutes do not in themselves define acts of discrimination, or provide for any level of state enforcement. The individual generally has a private right of action, but often the statute is silent, and this must be implied. Statutes in Idaho, Maine, Montana and Pennsylvania, have such language./28\

In these four states, the declaration complements other statutes which further define substantive rights, grant a private right of action, provide enforcement procedures and level sanctions. Standing alone, the declaration may have the advantage of offering an alternative means of redress. For instance, the statute may allow an action to be pursued in the courts rather than first requiring exhaustion of administrative remedies. In some cases a court may be able to order sanctions different from those enumerated in other civil rights statutes.

Declarations of Public Policy

Occasionally, the legislature passes a statute which has no purpose but to enunciate a state policy (or opinion). Four states have these statutes./29\ The Indiana policy states:

> It is the public policy of the state of Indiana to provide all of its citizens equal opportunity for education . . . and to eliminate segregation or [discrimination] based solely on race, religion, color, sex, handicap, national origin or ancestry since such segregation is an impediment to equal opportunity./30\

This statute contains no private right of action, provides for no state enforcement responsibility and enunciates no sanctions for a violation of civil rights. Any recognition of a civil right must be implied, as must any responsibility on the part of others. Although a state court may imply that this type of statute contains a right; the lack of detail only invites litigation to clarify the legislative intent. In the other three states, declarations of public policy stand as complements to the substantive civil rights policy. In these cases, the policy statement may serve to expand civil rights coverage and offer alternative means of redress.

Patently Discriminatory Laws.

Statutes prescribing separate schools remain on the books in some states. Whether such statutes remain because of legislative oversight, or because of a legislative intent, it is clear that their effect can be chilling. In Arkansas: "[t]he board of school directors of each district in the state shall: . . . [e]stablish separate school for white and colored persons."/31\ This statute is unenforceable because of numerous mandates of the United States Supreme Court.

Not nearly so egregious, but nevertheless disturbing, are statutes which propose to diminish the impact of school desegregation by allowing parents to opt-out of school assignments. For example, an Oklahoma statute provides:

> No pupil shall be assigned, transferred, or otherwise compelled to attend any school on account of race, creed, color, or national origin; and no school district or other authority shall seek to achieve racial balance or overcome racial imbalance by transferring or transplanting pupils from one school to another within a district, or from one district to another; provided that nothing contained in this section shall prevent the voluntary transfer of pupils to schools in which their race is in the minority, or other transfers not inconsistent with the provisions of this act./32\

These statutes were passed in a number of states as part of the massive resistance following Brown v. Board of Education. In the face of court ordered desegregation, these statutes are probably illegal, especially where state moneys are used to support private education designed to reestablish dual segregated school systems.

Affirmative Statutes

The seventh general category of state civil rights laws includes statutes which implement a policy against discrimination in education, and encourage development of nondiscriminatory attitudes among children. In California, instructional materials must "accurately portray the cultural and racial diversity of our society . . . [including] contributions of both men and women in all types of roles [and the] role and contributions of American Indians, American Negroes, Mexican Americans, Asian Americans, European Americans, and members of other ethnic and cultural groups . . . ."/33\

Another type of prescriptive statute directs the board of education or other responsible public agency to affirmatively act to achieve state policy. In Ohio, "[t]he department of education shall administer a program to support school boards that voluntarily adopt and implement plans of student transfers to desegregate schools within their districts."/34\

These statutes give substance to the state officials' duty to implement overall state policy. They define and refine these responsibilities, and in some cases, limit official responsibility. They generally offer no additional rights to the protected class, but a person injured by the failure of the state official to act may obtain redress in mandamus actions and other actions alleging failure to act.

It should be noted that many states have more than one type of statute. Among these states, the approach is often internally inconsistent. For example, a state's public accomodations statute

may provide a direct private right of action, while the statute prohibiting discrimination by educational institutions may authorize only administrative redress. An effort has been made to include all state statutes which impact the civil rights of students.

INTERPRETATION OF ISSUES
DE FACTO DISCRIMINATION

The federal Constitution only prohibits intentional policies designed to segregate schools. De facto segregation, or segregation caused by policies outside the control of the state, such as segregationist practices by realtors, will not normally lead to redress under the fourteenth amendment. Thus, parties in a desegregation case in federal court must produce evidence showing that local or state officials knowingly adopted policies leading to or exacerbating racial segregaton in the schools./35\ The use of circumstantial evidence to prove intent eases this burden of proof, but the requirement that segregation be intentional nonetheless poses a barrier to relief in some cases.

In stark contrast, a number of state statutes clearly recognize that racial imbalance in the schools, even without precipitating state action, is a denial of civil rights that should be corrected. Seventeen states that adopt this position./36\ In most of these states the public accommodations law prohibits discrimination, whether direct or indirect. Such language strongly suggests that intent is not required. A state court in Kentucky adopted this position in a housing case brought under its public accommodations law./37\

A few state laws use even stronger language. In Oregon, for example, the illegal act, defined in the education code, includes "any act that unreasonably differentiates treatment, intended or unintended . . . ."/38\ Again, it seems reasonable to believe that this prohibits de facto segregation.

States that prohibit de facto discrimination exceed the federal standard. There is no requirement that they do so, and, in fact, the United States Supreme Court has held that this is entirely a state decision. Specifically, when California shifted its standard from one prohibiting de facto discrimination downward, to coincide with the federal standard, the U.S. Supreme Court found no transgression of the federal Constitution./39\

Private Right of Action

Typically, federal civil rights laws have left unanswered the question of whether a private party, feeling injured, has a right to bring the case to court, or if the action must be bought by a federal agency. Title VI of the Civil Rights Act of 1964, for example, does not expressly provide for a private right of action. The courts have grappled for years with this question and only this year, almost two decades after passage of the law -- expressly decided the question./40\

State laws most often clarify the issue. Table 6 reviews state civil rights laws which determine who can bring suit, and shows that twenty-two state statutes contain language providing a direct private right of action to injured individuals./41\ In fourteen other states a private party may resort to the courts after all administrative remedies have been exhausted./42\ Nineteen state statutes are silent on the matter of a private right of action, though such a right may be implied by judicial construction./43\

Here again, it appears that states, on the whole, are more willing than the federal government to extend the scope of these laws. Where a private right of action exists, enforcement may be in the hands of private citizens, and not dependent on the will of a public agency.

State Agency Responsibility

Our review of five states efforts' to achieve integration in the schools suggests that success is most often achieved through a strong state agency, such as a human rights agency or an equal education opportunity office in the state department of education./44\ Statutory assignment of state authority is reviewed in Table 7.

By far the most common mechanism used by states to enforce civil rights laws is establishment of an administrative unit such as a human rights commission. Thirty-one states have such commission, usually on the state level./45\ Texas and Virginia have no state level commission by statute, but authorize municipalities to establish human rights commissions if desired./46\ The duties of these commissions vary. The majority have both investigative and adjudicative functions./47\ Some have authority to file complaints and many have the right to specify remedies and issue orders. Only one state, Oklahoma,\48\ fails to allow an appeal from an administrative order, the remaining thirty states allow a plaintiff to appeal to the trial court.

Other state enforcement mechanisms include requiring the Attorney General to enforce civil rights laws, or the delegation of authority to existing state agencies such as the Board of Education or Department of Welfare. In four states, the only state enforcement authority is the local prosecutor whose duty is to initiate criminal actions against violators of the public accomodations law./49\

In seventeen states, the civil rights laws provide no state level enforcement authority./50\ Failure to specify state responsibility has serious implications, as the Illinois state board learned when its state high court struck down its regulations under the Armstrong Act./51\

The Armstrong Act required local districts to "[c]hange or revise existing units or create new units in a manner which will take into consideration the prevention of segregation and elimination of separation of children in public schools because of race, color or nationality."/52\
The state board of education promulgated rules under this act, despite the absence of any clear state-level enforcement authority under the act. These regulations were challenged as ultra vires, or beyond the board of education's statutory authority. In 1982, the Illinois high court agreed and voided the board's regulations./53\

This result again points out the importance of consistancy and thoroughness in legislative drafting. Under current judicial conventions, if courts are unable to glean the legislative intent, regulatory action is more likely to be struck as beyond an agency's authority than be upheld as implied in the law.

Sanctions

Sanctions for violation of the law, more than any other provision, influence plaintiffs when deciding under which law to sue. State civil rights statutes run the gamut of penalties. Table 8 reviews these various statutory sanctions. Some states provide for fund withholding upon finding a violation./54\ Public accommodations laws typically provide for criminal sanctions and fines. In other states, civil penalties are provided, so a court or agency may be issue a cease and desist order, or order payment of actual and punitive damages, and fines. Most states provide a combination of penalties. Of course, courts may exercise their powers in equity to provide for enforcement of court orders under general constitutuional provisions, so the list in Table 8 is not exclusive.

Occasionally however, the sanctions under an otherwise effective statute, limit its usefulness to a typical race discrimination case. For example, a Texas antidiscrimination statute prohibits state officials from refusing to "permit a person to use facilities open to the public . . . ."/55\ Sanctions under this statute include an injunction to ban the discriminatory practice, and, more importantly, penal sanctions against the state official responsible for the discrimination. The penal nature of the statute means that it must be strictly construed by the courts. Thus, a court could reasonably conclude that the term "use" of public school facilities did not include more than attendance at school. This would effectively exclude post-matriculation discrimination from coverage. Where a statute contemplates punishment which is penal in nature, the effect of the court's obligation to strictly construe the language must also be considered in the drafting process./56\

CONCLUSION

Given the wide disparity in the terms, conditions and enforcement mechanisms of state civil rights laws, perhaps the most striking aspect of them is that they exist in such force. While the federal government does require certain civil rights, the states themselves are under no compulsion to codify the commitment in their laws. That they have chosen to do so gives lie to the notice that unequal treatment in school is solely a matter between the federal government and the local school district. States are responding to discrimination, and some states have subscribed to an even higher ideal than that contemplated on the federal level.

To be sure, many of these statutes are untested, and the scope of their coverage is unknown. Statutes which simply declare a public policy of nondiscrimination, with no liability or sanctions for violation, may be, in reality, just pretty prose. But the fact that they exist at all suggests that the door is open to a more concrete commitment by states.

FOOTNOTES

1. Byers v. Sun Savings Bank, 139 P. 948 (Okl. 1914).

2. In fact, in only one case in recent history, did application of equal protection to a suspect class result in upholding of the challenged state action. See Korematsu v. United States, 323 U.S. 214 (1944) (held not a violation of equal protection to sequester Japanese Americans during World War II). For a review of these principles, and the rules where no suspect class is affected, see Patricia Lines, Tuition Discrimination: Valid and Invalid Uses of Tuition Differentials, a Journal of College and University Law, 241, 242-46 (1982-83)

3. Brown v. Board of Education of Topeka, Kan., 347 U.S. 483 (1954).

4. 42 U.S.C. sec. 2000d (1976, as amended Supp. V 1978).

5. Title VII of the civil rights act of 1964, 42 U.S.C. sec. 2000e (1976, as amended Supp V 1978), prohibits discrimination based on race, color, national origin, sex and religion in employment. Title VII applies to any employer of 15 or more persons, so includes most educational institutions.

6. Thompson v. Engleking, 537 P2d 635 (ID. 1975). In this school finance case, the Idaho Supreme Court refused to give strict judicial scrutiny to the denial of fundamental rights.

7. Iowa Const. art. IX, sec. 12.

8. Clark v. School Dir. of the City of Muscatine, 24 Iowa 266 (1868). See also Dove v. Independent School Dist. of Keokuk, 41 Iowa 689 (1975).

9. Race discrimination in schools is constitutionally prohibited in Colorado, Hawaii, Idaho, Michigan, Montana, New Jersey, New Mexico, New York, Puerto Rico, Washington. See Table Three for citations and language.

10. Hawaii Const. art X, sec. 1.

11. Discrimination is expressly prohibited in educational institutions in: Atlanta, California, Connecticut, District of Columbia, Georgia, Idaho, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Wisconsin, Wyoming. See Table Four for citations and language.

12. Mont. Code Ann. sec. 49-2-307 (1981).

13. Okla. Stat. Ann. tit. 20, sec. 1210.201 (West 1972).

14. Alaska Stat. sec. 18.80.255 (1981).

15. Arizona, Arkansas, California, Louisiana, Maryland, New York, North Dakota, Oregon and Texas have similar statutes. See Table Four for citations and langauge.

16. La. Rev. Stat. Ann. sec. 49:673 (Supp. 1982).

17. Wash. Rev. Code sec. 49.60.040 91981). Colorado, Idaho, New Jersey, New York, Pennsylvania, Virgin Islands and Washington explicitly include schools in the definition of a public accommodation. See Table 4 for citations and language.

18. Utah Code Ann. sec. 13-7-2(a)(Supp 1981).

19. See Table Four for citations and language.

20. N.M. Stat. Ann. sec. 28-1-107(F) (1978).

21. Human Rights Comm'n v. Board of Regents, 624 P.2d 518 (N.M. 1981).

22. 338 P.2d 633 (Cal. Sup. 1959).

23. The California Supreme Court has since accepted the coverage of schools under the public accommodations law.

24. Vantine v. City of Tulsa, 518 P.2d 316 (1973).

25. Me. Rev. Stat. Ann. tit. 5, sec. 4591 (1979).

26. Wyo. Stat. sec. 6-4-610 (1977).

27. Mont. Code Ann. sec. 49-1-102 (1981).

28. See Table Four for citations and langauge.

29. California, Indiana, Nevada, North Dakota. See Table Four for citations and language.

30. Ind. Code Ann. sec. 22-9-1-2(a) (Burns Supp. 1982).

31. Ark. Stat. Ann. sec. 80-509 (1980).

32. Okla. Stat. Ann. tit.70, sec. 210.202 (West 1972). This provision is superceded by court order. See Dowell v. Board of Education of Oklahoma City Public Schools, 338 F. supp. 1256 (W.D. Okl.) affd. 465 F.2d 1012 (10th Cir.), cert. denied, 409 U.S. 1041 (1972). See also Ark Stat. Ann. sec. 80-1530 (1980).

Cal. Educ. Code sec. 60040 (1978).

Ohio Rev. Code Ann. sec. 3301.19 (Page Supp. 1982).

For a detailed discussion, see Lines, "Serving the Unserved Underserved: An Historical and Legal Perspective," Education mission of the States, September, 1983.

De facto segregation is prohibited in Illinois and sachusetts, two celebrated examples. The list also appears to lude Arizona, Colorado, Kansas, Kentucky, Maine, Missouri, New sey, New Mexico, New York, Oregon, Pennsylvania, South Dakota, nesee, the Virgin Islands, and the state of Washington. See le Five for citations and language.

Middlesboro House Auth. v. Kentucky Comm'n on Human Rights, S.W.2d 57 (Ky. Ct. App. 1977).

Or. Rev. Stat. sec. 659.150 (1) (1981).

Crawford v. Board of Educ., 102 S. Ct. 3211 (1982).

Guardians Assoc. v. Civil Service Comm. of New York, 103 S. 3221 (1983).

A direct private right of action is allowed in Alaska, necticut, District of Columbia, Idaho, Illinois, Louisiana, ne, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, o, Oregon, Puerto Rico, Tennessee, Texas, Utah, Virgin Islands, hington and West Virginia. See Table Six for citation and guage.

Fourteen states allow a private action in the form of an eal from an administrative order: Alaska, Arizona, Colorado, inois, Iowa, Kansas, Kentucky, Missouri, Montana, New pshire, New Mexico, Pennsylvania, South Dakota, Vermont. See le Six for citations and language.

These states are silent in the issue of private right of ion: Alabama, American Somoa, Arkansas, California, Florida, rgia, Guam, Hawaii, Idaho, Mississippi, Nebraska, North olina, North Dakota, oregon, Puerto Rico, South Carolina, ginia, Wisconsin, Wyoming. See Table Six for citations and guage.

See Winslow, et al., "State Inititives to Further Local egregation: The Quest for New Solutions in a Period of nsition," Education Commission of the States, September, 1983.

Alaska, Arizona, Colorado, Connecticut, Delaware, District of umbia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, yland, Massachusetts, Michigan, Missouri, Montana, Nevada, New

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APPENDIX

TABLE I

EDUCATION CLAUSES IN
STATE CONSTITUTIONS

This table includes only the basic requirement for education in the constitution. Unless they are a part of this clause, requirements of nondiscrimination, or requirements for special populations are not reported here. They are reported elsewhere.

ALABAMA
"The legislature shall establish, organize and maintain a liberal system of public schools throughout the state for the benefit of the children thereof between the ages of seven and 21 years ." Ala. Const. art. 14, sec. 256.

ALASKA
"The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution." Alaska Const. art. VII, sec. 1.

AMERICAN SAMOA
"The government shall operate a system of free and non-sectarian public education. The government will also encourage qualified persons of good character to acquire further education, locally and abroad, both general and technical, and thereafter to return to American Samoa to the end that the people thereof may be benefited." A.S. Rev. Const. art. 1, sec. 15.

ARKANSAS
"[T]he State shall ever maintain a general, suitable and efficient system of free schools whereby all persons in the State between the ages of six and twenty-one years may receive gratuitous instruction." Ark. Const. art. 14, sec. 1.

ARIZONA
"The University and all other State educational institutions shall be open to students of both sexes, and the instruction furnished shall be as nearly free as

possible. The Legislature shall provide for a system of common schools by which a free school shall be established and maintained in every school district for at least six months in each year, which school shall be open to all pupils between the ages of six and twenty-one years." Ariz. Const. art. II, sec. 6.

CALIFORNIA
"The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year . . . ." Cal. Const. art. 9, sec. 5.

"A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement." Cal. Const. art. 9, sec. 1.

COLORADO
"The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of six and twenty-one years, may be educated gratuitously." Colo. Const. art. IX, sec. 2.

CONNECTICUT
"There shall always be free public elementary and secondary schools in the state." Conn. Const. art. 8, sec. 1.

DELAWARE
"The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means." Del. Const. art. X, sec. 1.

DISTRICT OF COLUMBIA
"The control of the public schools in the District of Columbia is vested in a Board of Education to consist of eleven members." Acts Relating to Establishment of the District, District of Columbia Self-Government and Government Reorganization Act, D.C. Code Ann. sec. 495

(Michie 1981).

FLORIDA
"Adequate provision shall be made by law for a uniform system of free public schools and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require." Fla. Const. art. IX, sec. 1.

GEORGIA
"The provision of an adequate education for the citizens shall be a primary obligation of the State of Georgia, the expense of which shall be provided for by taxation." Ga. Const. art. VIII, sec. I (Ga. Code sec. 2-4901).

GUAM
"The Governor shall provide an adequate public educational system . . . ." Guam Organic Act sec. 1421g (b).

HAWAII
"The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no discrimination in public education institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution." Hawaii Const. art. X, sec. 1.

IDAHO
"The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho to establish and maintain a general, uniform and thorough system of public, free common schools." Idaho Const. art. IX, sec. 1.

ILLINOIS
"A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities. The State shall provide for an efficient system of high quality public educational

institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law. The State has primary responsibility for financing the system of public education." Ill. Const. art. X, sec. 1.

INDIANA

"Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general uniform system of Common schools, wherein tuition shall be without charge, and equally open to all." Ind. Const. art. 8, sec. 1.

IOWA

"The Board of Education shall provide for the education of all the youths of the State, through a system of Common Schools and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school as aforesaid, may be deprived of their portion of the school fund." Iowa Const. art. IX, sec. 12.

"The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement." Iowa Const. art. IX, sec. 3.

KANSAS

"No tuition shall be charged for attendance at any public school to pupils required by law to attend such school." Kan. Const. art. 6, sec. 6(b).

"The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law." Kan. Const. art. 6, sec. 1.

KENTUCKY

"The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State." Ky. Const. sec. 183.

LOUISIANA
"The legislature shall provide for the education of the people of the state and shall establish and maintain a public education system." La. Const. art. 8, sec. 1.

MAINE
"A general diffusion of the advancement of education being essential to the preservation of the rights and liberties of the people to promote this important object . . . , it is the [duty of the legislature] to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools." Me. Const. art. VIII, sec. 8.

MARYLAND
"The General Assembly, at its first session after the adoption of this Constitution, shall, by law, establish throughout the state a thorough and efficient system of free public schools." Md. Const. art. VIII, sec. 1.

MASSACHUSETTS
"Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the University at Cambridge, public schools and grammar schools in the towns . . . ." Mass. Const. ch. 5 sec. 2.

MICHIGAN
"The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin." Mich. Const. art. VIII, sec. 2.

"Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and means of education shall forever be encouraged." Mich. Const. art. VIII, sec. 1.

MINNESOTA
"The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state." Minn. Const. art. XIII, sec. 1.

MISSISSIPPI
"The legislature, may in its discretion, provide for the maintenance and establishment of free public schools for all children between the ages of six (6) and twenty-one (21) years." Miss. Const. art. 8, sec. 201.

MISSOURI
A "general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state not in excess of 21 years." Mo. Const. art. IX, sec. 1(A).

MONTANA
"The legislature shall provide a basic system of free quality public elementary and secondary schools." Mont. Const. art. X, sec. 1(3).

NEBRASKA
"The Legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of five and twenty-one years. The Legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof." Neb. Const. art. VII, sec. 1.

In the prohibition against appropriation of public funds to private schools, an exception is made for the education of handicapped children, "[t]he Legislature may provide that the state or any political subdivision thereof may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide for educational or other services for the benefit of children under the age of twenty-one years who are handicapped, as that term is from time to time

defined by the Legislature, if such services are nonsectarian in nature." Neb. Const. art. VII, sec. 11.

NEVADA
"The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year, and any school district which shall allow instruction of a sectarian character therein may be deprived of its proportion of the interest of the public school fund during such neglect or infraction, and the legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools." Nev. Const. art. 11, sec. 2.

NEW HAMPSHIRE
"[I]t shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools . . . ." N.H. Const. art. 83.

NEW JERSEY
"The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the state between the ages of five and eighteen years." N.J. Const. art. 8, sec. 4.

NEW MEXICO
"A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained." N.M. Const. art. XII, sec. 1.

"Provision shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of the state and free from sectarian control, and said schools shall always be conducted in English." N.M. Const. art. XXI, sec. 4.

NEW YORK
"The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of the state may be educated." N.Y. Const. art. 11, sec. 1.

NORTH CAROLINA
"The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students." N.C. Const. art. IX, sec. 2(1).

"Education encouraged. Religion, morality and knowlege being necessary to good government and the happiness of mankind, schools, libraries and the means of education shall forever be encouraged". N.C. Const. art. IX, sec. 1.

NORTH DAKOTA
"The Legislature shall provide for a uniform system of free public schools throughout the state." N.D. Const. art. VIII, sec. 2.

"A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota." N.D. Const. art. VIII, sec. 1.

OHIO
"The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state." Ohio Const. art. VI, sec. 2.

OKLAHOMA
"The Legislature shall establish and maintain a system of free public schools wherein all children of the state may be educated." Okla. Const. art. 13, sec. 1.

OREGON

"The Legislative Assembly shall provide by law for the establishment of a uniform, and general system of common schools." Or. Const. art. VIII, sec. 3.

PENNSYLVANIA
"The General Assembly shall provide for the maintenance of a thorough and efficient system of public education to serve the needs of the Commonwealth." Pa. Const. art. 3, sec. 14.

PUERTO RICO
"Every person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. There shall be a system of free and wholly non-sectarian public education. Instruction in the elementary and secondary schools shall be free and shall be compulsory in the elementary schools to the extent permitted by the facilities of the state. . . . Nothing contained in this provision shall prevent the state from furnishing to any child non-educational services established by law for the protection or welfare of children." P.R. Const. art. II, sec. 5.

"The commonwealth also recognizes the existence of the following human rights: The right of every person to receive free elementary and secondary education." P.R. Const. art. II, sec. 20.

RHODE ISLAND
"[I]t shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education." R.I. Const. art. 13, sec. 1.

SOUTH CAROLINA
"The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the state and shall establish, organize and support such other public institutions of learning as may be desirable." S.C. Const. art. XI, sec. 3.

SOUTH DAKOTA
"The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to

establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education." S.D. Const. art. VIII, sec. 1.

TENNESSEE
"The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools." Tenn. Const. art. 11, sec. 12.

TEXAS
"A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." Tex. Const. art. VIII, sec. 1.

UTAH
"The Legislature shall provide for the establishment and maintenance of a uniform system of public shools, which shall be open to all children of the State and be free from sectarian control." Utah Const. art. X, sec. 1.

VERMONT
"Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth." Vt. Const. ch. II, sec. 64.

VIRGINIA
"The General Assembly shall provide for a system of free public elementary and secondary schools for all children throughout the Commonwealth and shall seek to ensure that an educational program of high quality is established and continually maintained." Va. Const. art. VIII, sec. 1.

"Standards of quality . . . shall be determined and prescribed by the Board of Education, subject to revision only by the General Assembly." Va. Const. art. VIII, sec. 2.

"The General Assembly shall provide for the compulsory elementary and secondary education of every eligible child of appropriate ages." Va. Const. art. VIII, sec. 3.

VIRGIN ISLANDS
No provision in Constitution.

WASHINGTON
"The legislature shall provide for a general and uniform system of public schools." Wash. Const. art. IX, sec. 2.

"It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex." Wash. Const. art. IX, sec. 1.

WEST VIRGINIA
"The legislature shall provide, by general law, for a thorough and efficient system of free schools." W. Va. Const. art. XII, sec. 1.

WISCONSIN
"The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours." Wis. Const. art. 10, sec. 3.

WYOMING
"The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary." Wyo. Const. art. 7, sec. 1.

TABLE 2

GENERAL CONSTITUTIONAL PROVISIONS FOR EQUITY IN STATE POLICIES

This table shows the general provision, often resembling the equal protection clause in the federal constitution, for equity in state constitutions. Specific provisions for equal education opportunity regardless of race, color or national origin are reported in Table 3. State constitutional provisions prohibiting special legislation are not included, except where there is no equal protection clause, and we have located a case construing the prohibition as equivalent to an equal protection clause.

ALABAMA

"That all men are equally free and independent; that they are endowed by their Creater with certain unalienable rights; that among these are life, liberty and the pursuit of happiness." Ala. Const. art. 1, sec. 1.

"That in all criminal prosecutions, the accused has a right . . . [not to] be deprived of life, liberty or property except by due process of law . . . ." Ala. Const. art. 1, sec. 6.

"That no ex post facto law, nor any law, impairing the obligations of contracts, or making any irrevocable or exclusive grants of special privileges or immunities, shall be passed by the legislature, and every grant or franchise privilege or immunity shall forever remain subject to revocation, alteration or amendment." Ala. Const. art. 1, sec. 22.

The Supreme Court of Alabama has construed these to "combine to guarantee equal protection of the laws." City of Hueytown v Jiffy Chek Company, 342 So. 2d 761 (Ala. 1977).

ALASKA

"This constitution is dedicated to the principles that all persons have a natural right to life, liberty and the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are

equal and entitled to equal rights, opportunities and protection under the law; and that all persons have corresponding obligations to the people and the State." Alaska Const. art. I, sec. 1.

AMERICAN SAMOA
No provision.

ARKANSAS
"The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity, nor exempted from any burden or duty, on account of race, color or previous condition." Ark. Const. art. 2, sec. 3.

ARIZONA
"No laws shall be enacted granting to any citizen, class of citizens or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations." Ariz. Const. art. 2, sec. 13.

CALIFORNIA
"A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remed pecific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to th ited States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of t al Protection Clause of the 14th Amendment of the United States Constitution.

. . . .

Nothing herein shall prohibit the governing board of

a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended." Cal. Const. art. 4, sec. 7.

This amendment was found constitutional in Crawford V. Board of Education, 102 S.Ct. 3211 (1982).

COLORADO
"No person shall be deprived of life, liberty or property, without due process of law." Colo. Const. art. II, sec. 25. The Colorado Supreme Court has held that the fourteenth amendment's guarantee of equal protection of the law "exists within the [Colorado] constitution's due process clause." Lujan v. Colorado State Board of Educ., --- P.2d --- (Colo. 1982) (slip. op. at 12-13).

CONNECTICUT
"No persons shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin or sex." Conn. Const. amend. art. V.

DELAWARE
No provision.

DISTRICT OF COLUMBIA
"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, sec. 1.

FLORIDA
"All natural persons are equal before the law and have inalienable rights. . . . No person shall be deprived of any right because of race, religion or physical handicap." Fla. Const. art. 1, sec. 2.

GEORGIA

"Protection to person and property is the paramount duty of government, and shall be impartial and complete." Ga. Const. art. I (sec. II), sec. 2-203.

"Laws of a general nature shall have uniform operation throughout the State,and no special law shall be enacted in any case for which provision has been made by an existing general law. No general law affecting private rights shall be varied in any particular case, by special legislation, except with free consent, in writing, of all persons to be affected thereby; and no person under legal disability to contract, is capable of such consent." Ga. Const. art. I, sec. 2-207.

These provisions have been construed as "substantially equivalent of equal protection of the laws under the U.S. Constitution." McDaniel v. Thomas, 285 S.E.2d 156, 161 (Ga. 1981).

GUAM

"No discrimination shall be made in Guam against any person on account of race, language, or religion, nor shall the equal protection of the laws be denied." Guam Organic Act sec. 1421b(n).

HAWAII

"No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry." Hawaii Const. art. 1, sec. 5.

IDAHO

"All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature." Idaho Const. art. 1, sec. 2

ILLINOIS

"No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws." Ill. Const. art. I, sec. 2.

INDIANA

"We declare, That all men are created equal; that they are endowed by their CREATOR with certain inalienable rights; that among these are life, liberty and the pursuit of happiness . . . ." Ind. Const. art. 1, sec. 1.

"The general assembly shall not grant to any citizen, or class of citizen, privileges and immunities which, upon the same terms, shall not equally belong to all citizens." Ind. Const. art. 1, sec. 23.

IOWA

"All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens." Iowa Const. art. I, sec. 6.

KANSAS

"All men are possessed of equal and inalienable natural rights, among which are life, liberty and the pursuit of happiness." Kan. Const. Bill of Rights sec. 1.

"All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency."

Kan. Const. Bill of Rights sec. 2. The Supreme Court of Kansas has held that these two clauses have the same effect as the equal protection clause of the fourteenth amendment. Henry v. Bauder, 518 P.2d 362, 364-365 (Kan. 1974).

KENTUCKY

"All men, when they form a social compact, are equal; and no grant of exclusive, separate emoluments or privileges shall be made to any man or set of men, except in consideration of public services; but no property shall be exempt from taxation except as provided in this Constitution, and every grant of a franchise, privilege or exemption, shall remain subject to revocation, alteration or amendment." Ky. Const. sec. 3.

The Supreme Court of Kentucky has held that this section provides for equal protection of the laws. City of Louisville v. Klummeyer, 324 S.W.2d 831,834 (Ky. 1959).

LOUISIANA
"No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations." La. Const. art. 1, sec. 3.

Note that this clause implies only a rational basis standard for analyzing classifications.

MAINE
"No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof." Me. Const. art. I, sec. 6-A.

MARYLAND
"That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land." Md. Const. art. 24.

This clause has been construed as embodying "the same concept of equal treatment" as the fourteenth amendment equal protection clause, in Attorney General of Md. v. Waldron, 289 Md. 683, 426 A.2d 929, 940-41 (1981).

MASSACHUSETTS
"All people are born free and equal and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness. Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin." Mass. Const. art. I, sec. 1.

MICHIGAN
"All political power is inherent in the people.

Government is instituted for their equal benefit, security and protection." Mich. Const. art. 1, sec. 1.

"No person shall be denied the equal protection of the laws . . . ." Mich. Const. art. 1, sec. 2.

MINNESOTA

"No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers . . . ." Minn. Const. art. I, sec. 2.

"In all cases where a general law can be made applicable, a special law shall not be enacted except as provided in section 2 [pertaining to local governments]. Whether a general law could have been made applicable in any case shall be judicially determined without regard to any legislative assertion on that subject." Minn. Const. art. XII, sec. 1.

The Supreme Court of Minnesota has held that "[t]he standards of the equal protection clause of the Fourteenth Amendment are synonymous with the standards of equality under" these clauses. State v. Forge, 262 N.W. 2d 341,347 n.23 (Minn. 1977).

MISSISSIPPI

"No person shall be deprived of life, liberty, or property except by due process of law." Miss. Const. art. 3, sec. 14.

The Supreme Court of Mississippi treats this clause as providing the guarantee of equal protection of law. Mississippi Power Company v. Luter, 336 So. 2d 753, 754-55 (Miss. 1976).

MISSOURI

"That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit ppiness and the enjoyment of the gains of their own industry; that all persons are created equal and entitled to equal rights and opportunity under the law . . . ." Mo. Const. art. 1, sec. 2.

MONTANA

"The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws.

Neither the state nor any person, firm, corporation or institution shall discriminate against any person in the exercise of his civil rights on account of race, color, sex, culture, social origin or condition or political or religious ideas." Mont. Const. art. II, sec. 4.

NEBRASKA

"All persons are by nature free and independent, and have certain inalienable rights; among those are life, liberty and pursuit of happiness. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed." Neb. Const. art. I, sec. 1.

"There shall be no discrimination between citizens of the United States in respect to the acquisition, ownership, possession, enjoyment or descent of property. The right of aliens in respect to the acquisition, enjoyment, and descent of property may be regulated by law." Neb. Const. art. I, sec. 25.

"The Legislature shall not pass local or special laws . . . : Granting to any corporation, association, or individual any special or exclusive privileges immunity or franchise whatever; . . . In all other cases where a general law can be made applicable, no special law shall be enacted." Neb. Const. art. III, sec. 18.

The Supreme Court of Nebraska has referred to the state constitution's provisions as "comparable and complementary" to the equal protection clause of the fourteenth amendment.

Botsch v. Reisdorff, 193 Neb. 165, 226 N.W.2d 121, 124 (1975).

NEVADA

"All men are by nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property and pursuing and obtaining safety and happiness." Nev. Const. art. 1, sec. 1.

"[A]ll laws shall be general and of uniform operation throughout the state." Nev. Const. art. 4, sec. 21.

These two clauses provide guarantees of equal protection of the laws, like the fourteenth amendment. Laakonen v. Eighth Judicial District Court, 538 P.2d 574, 575 (Nev.

1975).

NEW HAMPSHIRE
"All men are born equally free and independent: Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good." N.H. Const. art. I.

This clause has been interpreted as providing "equal protection of the laws" by the Supreme Court of New Hampshire in Opinion of The Justices, 387 A.2d 333 (N.H. 1978).

NEW JERSEY
"No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin." N.J. Const. art. I, sec. 5.

NEW MEXICO
"No person shall be deprived of life, liberty or property without due process of law; nor shall any person be denied equal protection of the laws. Equality of rights under law shall not be denied on account of the sex of any person." N.M. Const. art. II, sec. 18.

This has been construed to be the same as the federal equal protection clause. Garcia v. Albuquerque Pub. School Bd., 622 P.2d 699 (N.M. Ct. App. 1981).

NEW YORK
"No person shall be denied the equal protection of the laws of this state of any subdivision thereof. No person shall, because of race, color, creed or religion be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state." N.Y. Const. art. 1, sec. 11.

NORTH CAROLINA
"No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the

1975).

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State because of race, color, religion or national origin." N.C. Const. art. 1, sec. 19.

NORTH DAKOTA
"All laws of a general nature shall have a uniform operation." N.D. Const. art. I, sec. 22.

This clause was treated as an equal protection clause, and was held to give handicapped children the right to "an equal educational opportunity." In the Interest of G.H., 218 N.W.2d 441 (N.D. 1974).

OHIO
"All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly." Ohio Const. art. I, sec. 2.

OKLAHOMA
"All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry." Okla. Const. art. 2, sec. 2.

"No person shall be deprived of life, liberty, or property, without due process of law." Okla. Const. art. 2, sec. 7.

These clauses have been recognized as equal protection provisions. See Elliott v. City of Oklahoma City, 471 P.2d 944, 945 (Okla. Crim. App. 1970).

OREGON
"No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens." Or. Const. art. I, sec. 20.

PENNSYLVANIA
"Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any right." Pa. Const. art. 1, sec. 26.

PUERTO RICO

"The right to life, liberty and the enjoyment of property is recognized as a fundamental right of man. The death penalty shall not exist. No person shall be deprived of his liberty or property without due process of law. No person in Puerto Rico shall be denied the equal protection of the laws . . . ." P.R. Const. art. II, sec. 7.

RHODE ISLAND

"All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens." R.I. Const. art. 1, sec. 2.

The Supreme Court of Rhode Island has interpreted this clause to be "essentially a guarantee of equal protection of the laws." Sweetman v. Town of Cumberland, 364 A.2d 1277, 1288 (R.I. 1976).

SOUTH CAROLINA

"The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law nor shall any person be denied the equal protection of the laws." S.C. Const. art. I, sec. 3.

SOUTH DAKOTA

"No law shall be passed granting to any citizen, class of citizens or corporation, privilege immunities upon which the same terms shall not equally belong to all citizens or corporations." S.D. Const. art. VI, sec. 18.

TENNESSEE

"That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land." Tenn. Const. art. 1, sec. 8.

"The legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities, or

exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provision of such law. No corporation shall be created or its powers increased or diminished by special laws but the General Assembly shall provide by general laws for the organization of all corporations, hereafter created, which laws may, at any time, be altered or repealed and no such alteration or repeal shall interfere with or divest rights which have become vested." Tenn. Const. art. II, sec. 8.

The Supreme Court of Tennessee has treated these two provisions as providing equal protection guarantees. Mitchell v. Mitchell, 594 S.W.2d 699, 701 (Tenn. 1980).

TEXAS

"Equality under the law shall not be denied or abridged." Texas Const. art. I, sec. 3(a).

UTAH

"All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require." Utah Const. art. I, sec. 2.

VERMONT

"That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men who are a part only of that community; and that community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal." Vt. Const. ch. I, art. 7.

This clause has been interpreted by the Supreme Court of Vermont as providing "the mandate of equal protection under the law". Veilleux v. Springer, 300 A.2d 620, 624 (Vt. 1973).

VIRGINIA

"[N]o person shall be deprived of his life, liberty, or property without due process of law; . . . that the right to be free from any governmental discrimination on the basis of religious conviction, race, color, sex or national origin shall not be abridged . . . ." Va.

Const. art. 1, sec. 11.

"That all men are by nature equally free and independent and have certain inherent rights of which, when they enter into a state of society, they cannot, by any compact, deprive their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety." Va. Const. art. I, sec. 1.

VIRGIN ISLANDS
"No law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein equal protection of the laws." V.I. Revised Organic Act sec. 3.

WASHINGTON
"No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations." Wash. Const. art. I, sec. 12. Also, discrimination in education is forbidden. "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex." Wash. Const. art. IX, sec. 1.

WEST VIRGINIA
"The courts of this state shall be open, and every person, for an injury done to him, in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay." W. Va. Const. art. III, sec. 17.

This clause was interpreted as an equal protection provision in O'Neil v. City of Parkersburg, 237 S.E.2d 504 (W.Va. 1977).

WISCONSIN
"All men are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." Wis. Const. art. 1, sec. 1.

The Court of Appeals of Wisconsin has stated that "[t]he protection afforded by this provision is substantially equivalent to the due process and equal protection clauses of the fourteenth amendment to the United States Constitution." Yotvat v. Roth, 95 Wis.2d 357, 290 N.W.2d 524, 528 n. 1 (Wis. App. 1980).

WYOMING
"All laws of general nature shall have a uniform operation." Wyo. Const. art. 1, sec. 34.

The Supreme Court of Wyoming has recognized that this provision is equivalent to the equal protection clause of the fourteenth amendment. Washakie County School Dist. No. One. v. Herschler, 606 P.2d 310, 332 (Wyo. 1980).

TABLE 3

DOES THE STATE CONSTITUTION PROHIBIT RACIAL SEGREGATION OR DISCRIMINATION BASED ON RACE IN PUBLIC SCHOOLS?

Note this table does not include equal protection clauses. They are found in Table 2.

ALABAMA
No provision.

ALASKA
Yes. "No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex or national origin. The legislature shall implement this section." Alaska Const. art. I, sec. 3.

AMERICAN SAMOA
No provision.

ARKANSAS
Yes. "The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity, nor exempted from any burden or duty, on account of race, color or previous condition." Ark. Const. art. 2, sec. 3.

ARIZONA
No provision.

CALIFORNIA
Yes. However, it is extremely limited: "A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin." Cal. Const. art. 1, sec. 8.

COLORADO
Yes. "[No] distinction or classification of pupils be made on account of race or color, nor shall any pupil be assigned or transported to any public educational institution for the purpose of achieving racial balance." Colo. Const. art. IX, sec. 8.

CONNECTICUT
Yes. "No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin or sex." Conn. Const. amend. art. 5.

DELAWARE
No provision.

DISTRICT OF COLUMBIA
No local constitutional provision.

FLORIDA
No provision.

GEORGIA
No provision.

GUAM
No provision.

HAWAII
"The State shall provide for the establishment, support, and control of a statewide system of public schools . . . . There shall be no segregation in public educational institutions because of race . . . ." Hawaii Const. art. X, sec. 1.

"No person shall be denied the enjoyment of . . . [his] civil rights because of race, religion, sex or ancestry." Hawaii Const. art. 1, sec. 4.

IDAHO
Yes. "[No] distinction or classification of pupils [shall] be made on account of race or color." Idaho Const. art. 9, sec. 6.

ILLINOIS
Yes. However, it is limited: "All persons shall have the right to be free from discrimination on the basis of race, color, creed, national ancestry and sex in the hiring and promotion practices of any employer or in the sale or rental of property." Ill. Const. art. 1, para.

17.

INDIANA
No provision.

IOWA
Yes. "The Board of Education shall provide for the education of all youths of the State, through a system of common schools and such school shall be organized and kept in each school district for at least three months a year."
Iowa Const. art. 9, 2nd, sec. 12.

This provision was construed to forbid race discrimination in public schools in Clark v. School Directors of City of Muscatine, 24 Iowa 266 (1868) and Dove v. Independent School Dist. of Keokuk, 41 Iowa 689 (1875).

KANSAS
No provision.

KENTUCKY
No. "In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained."
Ky. Const. sec. 187.

This provision is unconstitutional.

LOUISIANA
Yes. "No law shall discriminate against a person because of race . . . ." La. Const. art. 1, sec. 3

"In access to public areas, accommodations and facilities, every person shall be free from discrimination based on race, religion, or national ancestry and from arbitrary, capricious, or unreasonable discrimination based on age, sex, or physical condition." La. Const. art. 1, sec. 12.

MAINE
"No person shall be deprived of life, liberty or property without due process of law . . . nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof." Me. Const. art. 1, sec. 6-A.

MARYLAND

No provision.

MASSACHUSETTS
Yes. "Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin." Mass. Const. part 1, art. I.

MICHIGAN
Yes. "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin." Mich. Const. art. 8, sec. 2.

MINNESOTA
Yes. "No member of this state shall be disenfranchised or deprived of any rights or privileges secured to any citizen thereof. There shall be neither slavery nor involuntary servitude . . . ." Minn. Const. art. 1, sec. 2. The purpose of this equal protection clause is to secure to every person a right to be free from arbitrary and intentional discrimination. Price v. Andal, 256 N.W.2d 461 (1972).

MISSISSIPPI
Yes. "There shall be neither slavery nor involuntary servitude in this state, otherwise than in the punishment of crime, whereof the party shal have been only duly convicted." Miss. Const. art. 3, sec. 15.

MISSOURI
Yes. "No school district which permits differences in wages of teache having the same training and experience because of race or color, shall receive any portion of [the appropriation by the state for the support of schools]." Mo. Const. art. 9, sec. 3(c).

MONTANA
Yes. "Neither the state nor any person, firm, corporations or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition or political or religious ideas." Mont. Const. art. II, sec. 4.

No person shall be refused admission to any public educational institution on account of . . . race . . . or national origin." Mont. Const. art. X, sec. 7.

NEBRASKA
No provision.

NEVADA
No provision.

NEW HAMPSHIRE
Yes. "Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin." N.H. Const. part 1, art. 2.

NEW JERSEY
Yes. "There shall be no establishment of one religious sect in prefer to another; no religious or racial test shall be required as a qualification for any office or public trust." N.J. Const. art. 1, sec. 4.

"No person shall be denied the enjoyment of any civil or military right nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin." N.J. Const. art. 1, sec. 5.

NEW MEXICO
No general provision.
However, there is prohibition against discrimination against Hispanics. "Children of Spanish descent in the state of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the state, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this state, in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment."
N.M. Const. art. XII, sec. 10.

NEW YORK
Yes. "No person shall, because of race, color, creed or

religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subddivision of the state." N.Y. Const. art. 1, sec. 11.

NORTH CAROLINA
No provision.

NORTH DAKOTA
Yes. "Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state." N.D. Const. art. I, sec. 6.

OHIO
No provision.

OKLAHOMA
Yes. "The State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude." Okla. Const. art. 1, sec. 7.

OREGON
No. However, there is an anti-slavery provision. "There shall be neither slavery, nor involuntary servitude in the State, otherwise than as punishment for crime . . . ." Oregon Const. art. 1, sec. 34.

PENNSYLVANIA
No specific provision. However, there is a broad new discrimination section. "Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil rights." Pa. Const. Art 1, sec. 26.

PUERTO RICO
Yes. "No discrimination shall be made on account of race, color, sex, birth, social origin or condition or political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality." P.R. Const. art. II, sec. 1.

RHODE ISLAND
No. However, there is an antislavery provision:
"Slavery shall not be permitted in this state." R.I. Const. art. I, sec. 4.

SOUTH CAROLINA
No provision.

SOUTH DAKOTA
No provision.

TENNESSEE
Yes. "That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are forever prohibited in this State."
Tenn. Const. art. 1, sec. 33.

TEXAS
Yes. "Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin."
Texas Const. art. 1, sec. 3a.

UTAH
No provision.

VERMONT
No provision.

VIRGINIA
"[T]he right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex or national origin shall not be abridged . . . ." Va. Const. art. I, sec. 11.

VIRGIN ISLANDS
No provision.

WASHINGTON
Yes. "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste or sex."
Wash. Const. art. IX, sec. 1.

WEST VIRGINIA
No. "All men are, by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely: the enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety." W. Va. Const. art. 3, sec. 1.

"White and colored persons shall not be taught in the same school." W. Va. Const. art. 12, sec. 8.

WISCONSIN
No provision.

WYOMING
Yes. "Since equality in the enjoyment of natural and civil rights is only made sure through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race . . . or any circumstance or condition whatsoever other than individual incompetency, or unworthiness duly ascertained by a court of competent jurisdiction.
Wyo. Const. art. 1, sec. 3.

TABLE 4

DOES THE STATE HAVE A STATUTE PROHIBITING RACIAL INEQUITY OR RACE SEGREGATION IN THE PUBLIC SCHOOLS?

Note LEC interprets a law prohibiting discrimination in places of public accommodation as applicable to schools unless the statutory language specifically excludes schools. Although the language below includes prohibitions against students based on sex, handicap and other characteristics, this is not the focus of this table. Many states have separate statutes covering inequity based on these other characteristics and they will appear in separate charts to be prepared by ECS. The absence of a statute does not infer the absence of a policy; some states may rely upon federal law or state regulations, or both.

ALABAMA
No provision.

ALASKA
Yes. "It is unlawful for the state or any of its political subdivisions: (1) to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, sex, color or national origin; (2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld or denied to a person of a certain race, religion, sex color or national origin or that the patronage of a person belonging to a particular race, creed, sex, color or national origin is unwelcome, not desired or solicited." Alaska Stat. sec. 18.80.255 (1981).

"The opportunity to obtain employment, public accommodations, housing accommodations and property without discrimination because of sex, race, religion, color or national origin is a civil right." Alaska Stat. sec. 18.80.210 (1974).

"Public accommodation" includes "all . . . public amusement and business establishments, subject only to the conditions and limitations established by law . . . ." Alaska Stat. sec. 18.80.300(7) (1974).

"No person shall be deprived of the privileges of the University of Alaska because of sex, color or nationality." Alaska Stat. sec. 14.40.050 (1982).

AMERICAN SAMOA
No provision.

ARKANSAS
Yes. "No citizen in the state of Arkansas, in a county, city or local community, shall on the grounds of race, color, religion or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination services or participation under any program or activity receiving Arkansas Tax Funds. Each county, city, local community or agency within the state of Arkansas which is empowered to extend financial assistance to any program or activity, by way of Arkansas State, County or City Tax Funds shall not engage in any practice of discrimination in participation, employment, services or in any other human involvement." Ark. Stat. Ann. sec. 17-2006 (1980).

"The board of school directors of each district in the State shall be charged with the following powers and perform the following duties: . . . . Establish separate schools for white and colored persons." Ark. Stat. Ann. sec. 80-509 (1980).

ARIZONA
Yes. "Discrimination in places of public accommodation against any person because of race, color, creed, national origin or ancestry is contrary to the policy of this state and shall be deemed unlawful. B. No person shall, directly or indirectly, refuse to, withhold from, or deny to any person, nor aid in or incite such refusal to deny or withhold, accommodations, advantages, facilities or privileges thereof because of race, color, creed, national origin, or ancestry, nor shall distinction be made with respect to any person based on race, color, creed, national origin, or ancestry in connection with the price or quality of any item, goods or services offered by or at any place of public accommodation." Ariz. Rev. Stat. sec. 41-1442(A) & (B) (1972).

continued

Arizona, cont.
"'Places of public accommodation' means . . . all establishments which cater or offer its services, facilities or goods to or solicits patronage from the members of the general public." Ariz. Rev. Stat. sec. 41-1441 (1972).

CALIFORNIA
Yes. "No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state." Cal. Gov't Code sec. 11135 (1980).

Nondiscrimination provisions also appear in numerous other laws. Examples are set forth below.

"[I]t is the policy of the people of the State of California to provide an educational opportunity to the end that every student leaving school shall have the opportunity to be prepared to enter the world of work . . . and that such opportunities are a right to be enjoyed without regard to race, creed, color, national origin, sex or economic status." Cal. Educ. Code sec. 51004 (1978).

Instructional materials must "accurately portray the cultural and racial diversity of our society . . . ." They must include "contributions of both men and women in all types of roles" and the "role and contributions of American Indians, American Negroes, Mexican Americans, Asian Americans, European Americans, and members of other ethnic and cultural groups . . . ." Cal. Educ. Code sec. 60040 (1978). See also sec. 240 (Supp. 1983).

Furthermore, "[n]o instructional materials shall be adopted . . . for use in schools which . . . contains: (a) Any matter reflecting adversely upon persons because of their race, color, creed, national origin, ancestry, sex or occupation. (b) Any sectarian or demoninational doctrine or propaganda contrary to law." Cal. Educ. Code sec. 60044 (1978).

Teachers and districts must not provide instruction or undertake activities which "reflects adversely upon persons because of their race, sex, color, creed, national origin or ancestry." Cal. Educ. Code sec. 51500 (1978). Text books and other instructional

materials must be free of any matter "reflecting adversely upon persons because of their race, sex, color, creed, national origin or ancestry." Cal. Educ. Code sec. 51501 (1978).

Separate provisions apply to community colleges: "Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex." Cal. Educ. Code sec. 72011 (Supp. 1983).

California prohibits use of state funds under the control of the University of California for use "in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin." Cal. Educ. Code sec. 92150 (Supp. 1983).

COLORADO

Yes. "It is a discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny to an individual or a group, because of race, handicap, creed, color, sex, marital status, national origin, or ancestry, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation . . . ." Colo. Rev. Stat. sec. 24-34-601(2) (1982).

A "place of public accommodation" is defined to include "an educational institution." Colo. Rev. Stat. sec. 24-34-601(1) (1982).

CONNECTICUT

Yes. "All educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which state agencies participate, shall be open to all qualified persons, without regard to race, color, religious creed, sex, age, national origin, ancestry, mental retardation or physical disabiity including but not limited to, blindness." Conn. Gen. Stat. Ann. sec. 46a-75 (West Supp. 1983).

"The public schools shall be open to all children five years of age and over and each such child shall have, and shall be so advised by the appropriate school authorities, an equal opportunity to participate in the activities, programs and courses of study offered in such public schools, at such time as the child becomes

eligible to participate in such activities, programs and courses of study, without discrimination on account of race, color, sex, religion or national origin . . . ." Conn. Gen. Stat. Ann. sec. 10-15c (West Supp. 1983).

"It shall be a discriminatory practice in violation of this section: (1) To deny any person full and equal accommodation, resort or amusement because of race, creed, color, national origin, ancestry, sex, marital status, age, mental retardation or physical disability . . . ." Conn. Gen. Stat. Ann. sec. 46a-64 (West Supp. 1983). "A place of public accommodation, resort or amusement means any establishment which caters or offers its services or facilities or goods to the general public . . . ." The definition does not specifically mention schools. Conn. Gen. Stat. Ann. sec. 46a-63(1) (West Supp. 1983).

DELAWARE
Yes. "No person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, shall directly or indirectly refuse, withhold from or deny to any person, on account of race, age, marital status, creed, color, sex or national origin, any of the accommodations, facilities, advantages or privileges thereof." Del. Code Ann. tit. 6, sec. 4504(a) (1974).

DISTRICT OF COLUMBIA
Yes. "It is unlawful discriminatory practice . . . for an educational institution . . . to deny, restrict or to abridge or condition the use of, or access to, any of its facilities and services to any person otherwise qualified, wholly or partially, for a discriminatory reason, based upon the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, political affiliations, source of income or physical handicap of any individual." D.C. Code Ann. sec. 1-2520(a) (1981).

FLORIDA
No provision.

GEORGIA
Yes. "No student shall be refused admission into or be excluded from any public school in the state because of race, creed, color, or national origin." Ga. Code Ann. sec. 20-2-670 (1982).

GUAM
Yes. "Any person within the jurisdiction of this territory who conducts himself in a proper and lawful manner is entitled to the full and equal accommodations, advantages, facilities and privileges of . . . places of a public accommodation . . . ." Guam Civ. Code sec. 51 (1970).

A place of public accommodation includes "inns, restaurants, hotels [and] eating houses . . . ." Guam Civ. Code sec. 51 (1970).

"[W]hoever makes any discrimination . . . on account of race or religion . . . is liable . . . ." Guam Civ. Code sec. 52 (1970).

"No instruction shall be given, texts used, nor entertainment permitted in or about the schools which in any way casts a derogatory reflection upon any person in Guam because of his race, color or creed." Guam Code Ann. tit. 17, sec. 4102 (1982).

HAWAII
There is no provision in the statutes. There are, however, numerous State Board of Education policies relating to civil rights. There are affirmative action and student discrimination programs, with guidelines and mechanisms for bringing complaints. There are also many policy statements regarding a committment to Equal Education Opportunity. See generally, Board of Education Policy on Equal Education Opportunity (Feb. 5, 1976; Jan. 9, 1975; June 17, 1972); Superintendent of Education memo to District Superintendents, subject: Equal Access to School Courses and Services (Dc. 28, 1977); and related Department of Education brochures.

IDAHO
Yes. "The right to be free from discrimination because of race, creed, color, sex or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to . . . [t]he right to the full enjoyment of any of the accommodations, facilities or privileges of any place of public . . . accommodations [or] assemblage . . . ." Idaho Code sec. 18-7301(2) (1979).

A "place of public accommodations [or] assemblage" includes "any educational institution wholly or partially supported by public funds, or schools of

special instruction, or nursery schools, or day care centers or children's camps . . . ." This section also excludes facilities operated by a "bona fide religious or sectarian institution" and affirms "the right of a natural parent . . . to direct the education and upbringing of a child." Idaho Code sec. 18-7302(e) (1979).

"It shall be a prohibited act to discriminate against a person because of, or on a basis of race, color, religion, sex or national origin, in any of the following . . . :"
. . . (6) For an educational institution; (a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, or (b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, of an applicant for admission, except as permitted by the regulations of the commission, or (c) to print or publish or cause to be printed or published a catalogue or other notice or advertisement indicatng a preference, limitation, specification, discrimination, of an applicant for admission, or (d) to announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members." Idaho Code sec. 67-5909 (6) (Supp. 1982) (human rights law).

ILLINOIS
Yes. "It is a civil rights violation for any person on the basis of unlawful discrimination to . . . [d]eny or refuse to another the full and equal enjoyment of the facilities and services of any public place of accommodation; [or] to [d]eny or refuse to another, as a public official, the full and equal enjoyment of the accommodations, advantages, facilities or privileges of the official's office or services or of any property under the official's care because of unlawful discrimination." Ill. Ann. Stat. ch. 68, para. 5-102(A) & (C) (Smith-Hurd Supp. 1983).
"Unlawful discrimination" is defined as "discrimination against a person because of his or her race, color, religion, national origin, ancestry, age, sex, marital status, handicap or unfavorable discharge from military service." Ill. Ann. Stat. ch. 68, para. 1-103(Q) (Smith-Hurd Supp. 1983).

A place of public accommodation is defined as "a business, accommodation, refreshment, entertainment,

recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, advantages or accommodations are extended." Ill. Ann. Stat. ch. 68, para. 5-101(A)(1) (Smith-Hurd Supp. 1983).

"Public official" means "any officer or employee of the state or any agency thereof, including state political subdivisions, municipal corporations, . . . educational institutions and schools." Ill. Ann. Stat. ch. 68, para. 5-101(C) (Smith-Hurd Supp. 1983).

There are also nondiscrimination provisions in the education code: "As soon as practicable, and from time to time thereafter, [the local board of education] shall change or revise existing units or create new units in a manner which will take into consideration the prevention of segregation and the elimination of separation of children in public schools because of race, color or nationality." Ill. Ann. Stat. ch. 122, para. 10-21.3 (Smith-Hurd Supp. 1983) (the Armstrong Act.) This reaction also gives local school boards the power "[t]o assign pupils to the several schools in the district; to admit non-resident pupils when it can be done without prejudice to the rights of resident pupils . . . but no pupil shall be excluded from or segregated in any such school on account of his color, race, sex, or nationality. Nothing herein shall be construed to permit or empower the State Board of Education to order, mandate or require busing or other transportation of pupils for the purpose of achieving racial balance in school." Ill. Ann. Stat. ch. 122, para. 10-22.5 (Smith-Hurd Supp. 1983) (the Armstrong Act). The state found that this provision did not give the state board policy making authority, and voided state regulations requiring racial quotas for each school. Aurora East Pub. School Dist. v. Cronin, 66 Ill. Dec. 85, 90, 92 Ill.2d 313, 442 N.E.2d 511 (1982).

"No school, college or university . . . that refuses admittance to applicants solely on account of race, color, creed, sex or national origin shall be considered reputable and in good standing." Ill. Ann. Stat. ch. 127, para. 60(4) (Smith-Hurd Supp. 1973).

In order to be classified as a "private institution of higher education " an institution must not discriminate on the basis of race, color or creed. Ill. Ann. Stat. ch. 144, para. 1303.07(d) (Smith-Hurd Supp. 1983).

INDIANA

Yes. "It is the public policy of the state of Indiana

to provide all of its citizens equal opportunity for education . . . and to eliminate segregation or [discrimination] based solely on race, religion, color, sex, handicap, national origin or ancestry since such segregation is an impediment to equal opportunity." Ind. Code Ann. sec. 22-9-1-2(a) (Burnes Supp. 1982).

IOWA

Yes. "It shall be unfair or discriminatory practice for any owner, lessee [or] superintendent of any public accommodation . . . to refuse or deny to any person because of race, creed, color, sex, national origin, religion or disability or otherwise to discriminate against any person . . . in the furnishing of such accommodations, advantages, facilities, services or privileges." Iowa Code sec. 601A.7(1)(a) (1981). This does not apply to "any bona fide religious institution with respect to any qualifications this institution may impose if related to a bona fide religious purpose." Iowa Code sec. 601A.7(2)(a) (1981).

The definition of "public accommodation" is broad enough to include schools. It is defined as "each and every place . . . that offers services . . . [if that accommodation] receives any substantial government support or subsidy." The term also includes "each state and local government unit or tax-supported district of whatever kind . . . ." Iowa Code sec. 601A.2(10) (West Supp. 1983).

Public schools are required to teach "from a multicultural, nonsexist approach." Iowa Code sec. 257.25 (West Supp. 1983).

In addition, "[t]he board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status or place of national origin." Iowa Code sec. 280.3 (Supp. 1983).

KANSAS

Yes. "It shall be unlawful discriminatory practice: For any person . . . being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities and accommodations to any person . . . because of race, religion, color, sex, physical handicap, national origin or ancestry." Kan. Stat. Ann. sec. 44-1009(c)(1) (1980).

"Person" includes "[a]ssociates, organizations and corporations." Kan. Stat. Ann. sec. 44-1002(a) (1980). "Public accommodation" is defined to exclude "[a] nonprofit fraternal or social association or corporation." Sec. 44-1002(h) (1980). The term "unlawful discriminatory practice" includes "[a]ny discrimination against persons in the full and equal use and enjoyment of the facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof." Kan. Stat. Ann. sec. 44-1002(i) (1980).

KENTUCKY

Yes. "[I]t is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation . . . on the ground of race color, religion, or national origin." Ky. Rev. Stat. Ann. sec. 344.120 (1983).

A "'Person' includes . . . the state, any of its political or civil subdivisions or agencies." Ky. Rev. Stat. Ann. sec. 344.010(1) (1983). A place of public accommodation "includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds." Ky. Rev. Stat. Ann. sec. 344.130 (1983). See also, Wooley v. Spalding, 293 S.W.2d 323 (Ky. App. 1962) (unconstitutional to have two high schools in one part of a county and none in another).

LOUISIANA

Yes. "A. No person shall be refused admission into or be excluded from any public school in the State of Louisiana on account of race, creed, color or national origin." La. Rev. Stat. Ann. sec. 17:111(A) (1982).

"B. Except with the express approval of a board of education or school board having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors or national origins, and no school district, school zone or

attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardians . . . ." La. Rev. Stat. Ann. sec. 17:111(B) (1982).

"No person in the State of Louisiana shall, on the ground of race, color . . . or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving state financial assistance." La. Rev. Stat. Ann. sec. 39:1411 (Supp. 1983).

"Unless existing federal guidelines and requirements of a federal block grant provide for such, any executive agencies which receive federal block grant funds shall prepare a plan for the expenditure of the funds which prohibits discrimination on the basis of race, sex, religion, and age and ensures respect for the civil rights of program recipients." La. Rev. Stat. Ann. sec. 49:673 (Supp. 1983).

MAINE

Yes. "The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race or color, sex, physical or mental handicap, religion, ancestry or national origin is recognized and declared to be a civil right." Me. Rev. Stat. Ann. tit. 5, sec. 4591 (1979).

"It shall be unlawful public accommodations discrimination . . . : For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of race or color, sex, physical or mental handicap, religion, ancestry or national origin, any of the accommodations, advantages, facilities or privileges of such place of public accommodations, or for such reason in any manner discriminate against any person in the price, terms or conditions upon which access to such accommodation, advantages, facilities and privileges may depend . . . ." Me. Rev. Stat. Ann. tit. 5, sec. 4592 (1979).

A place of public accommodation "means any establishment which in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public." Me. Rev. Stat. Ann. tit. 5, sec.

4553(8) (1979). The list of examples does not specifically include schools or public agencies.

MARYLAND

Yes. "It is unlawful for any person, business, corporation, partnership, copartnership or association or any other individual, agent, employee, group or firm which is licensed or regulated by the Department of Licensing and Regulation . . . to refuse, withhold from, deny or discriminate against any person the accommodations, advantages, facilities, privileges, sales or services because of the race, sex, creed, color, national origin, marital status, or physical or mental handicap of any person." Md. Ann. Code art. 49B, sec. 8 (1978).

"The agencies, officers and employees of the State of Maryland may not engage in any of the discriminatory practices which are prohibited by secs. 5 [denial of access to public accommodations], 16 [employment discrimination], 20, 21 and 22 [housing discrimination] of this article." Md. Ann. Code art. 49B, sec. 7 (1978).

MASSACHUSETTS

Yes. Discrimination on the basis of race, color, sex, or nationality is prohibited in places of public accommodation. Mass. Gen. Laws Ann. ch. 272, sec. 98 (West Supp. 1983). The definition of "a place of public accommodation" in sec. 92A does not specifically exclude or include schools, although public libraries, museums, auditoriums, theatres and meeting halls are included.

"It shall be an unfair educational practice for an educational institution: (a) To exclude or limit or otherwise discriminate against any United States citizen or citizens seeking admission as students, to such institution, because of race, religion, creed, color or national origin." Mass. Gen. Laws Ann. ch. 151C, sec. 4 (West 1982).

"Every person shall have a right to attend the public schools of the town where he actually resides . . . . No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, religion or national origin." Mass. Gen. Laws Ann. ch. 76, sec. 5 (West 1982) (school attendance provision).

"The school committee of each city, town, and regional school district shall annually, at such time and in such form as the commissioner shall determine, submit to the commissioner statistics sufficient to enable a determination to be made of the percent of white and non-white pupils attending all public schools and attending each public school under the jurisdiction of each such committee. Whenever the board of education . . . finds that racial imbalance exists in a public school, it shall in writing notify the school committee or regional district school committee having jurisdiction over such school that such finding has been made." Mass. Gen. Laws Ann. ch. 71, sec. 37D (West 1982) (Racial Imbalance Act). This section also gives any non-white pupil attending a racially imbalanced public school the right to be transferred to any other imbalanced school under the control of the same school committee or regional district school committee; and any white pupil attending any racially imbalanced public school has the right to be transferred to any other school, under similar circumstances. "Racial imbalance" is defined as "the condition of a public school in which more than fifty percent of the pupils attending such school are non-white." Mass. Gen. Laws Ann. ch. 71, sec. 37D (West 1982).

Another law provides for imbalance in special education programs. "[I]f there is a pattern of assignment throughout the district on the basis of sex, national origin, economic status, race or religion of the students which is substantially disproportionate" from the district population, the state department of education "shall notify such school district of its prima facie denial of equal educational opportunities." Mass. Gen. Laws Ann. ch. 71B, sec. 6 (West 1982).

MICHIGAN

Yes. "An educational institution shall not:
(a) Discriminate against an individual in the full utilization of or benefit from the institution, or the services, activities, or programs provided by the institution because of . . . race, sex or national origin . . . .
(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, privileges or conditions of the institution because of . . . race, sex or national origin . . . .
(c) For purposes of admission only, make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the . . . race, sex or national origin . . . of a person,

except as permitted by rule of the commission, or as required by federal law . . . or pursuant to an affirmative action program.
(d) Print or publish or cause to be printed or published a catalog, notice, or advertisement indicating a preference, limitation, specification, or discrimination based on the . . . race, sex or national origin . . . of an applicant for admission to the educational institution.
(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of . . . race, sex or national origin . . . ." Mich. Comp. Laws Ann. sec. 37.2402 (West Supp. 1983).

MINNESOTA
Yes. "It is unfair discriminatory practice: 1) To discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, 2) To exclude, expel or otherwise discriminate against a person enrolled as a student because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, 3) To make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information . . . concerning race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, except as permitted by regulations of the department." Minn. Stat. sec. 363.03(5) (Supp. 1983).

The education code contains the following provision: "No district shall classify its pupils with respect to race, color, social position, or nationality, nor separate its pupils into different schools or departments upon any such grounds. Any district so classifying or separating its pupils or denying school privileges. . . shall forfeit its share in all apportioned school funds for any apportionment period which classification, separation, or exclusion shall occur or continue," Minn. Stat. sec. 127.08 (1979).

MISSISSIPPI
Yes. "No person shall be assigned to or by, or restricted from or to, any group, area, school, institution or other political subdivision of the state of Mississippi on the account of race, color, or

national origin. There shall be no governmentally enforced segregation by race, color or national origin and there shall be no governmentally enforced integration by reason of race, color, or national origin." Miss. Code Ann. sec. 37-15-35 (1973).

MISSOURI

Yes. "All persons within the jurisdiction of the state of Missouri are free and equal and shall be entitled to the full and equal use and enjoyment within this state of any place of public accommodation, as hereinafter defined, without discrimination or segregation on the grounds of race, creed, color, religion, national origin, sex, ancestry or handicap." Mo. Ann. Stat. sec. 314.010(1) Vernon supp. 1983).

"'Places of public accommodation' means all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages and accommodations for the peace, comfort, health, welfare and safety of the general public and such public places providing food, shelter, recreation and amusement including, but not limited to: (5) Any public facility owned, operated, or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds . . . ." Mo. Ann. Stat. sec. 314.020 (Vernon supp. 1983).

MONTANA

Yes. "The right to be free from discrimination because of race, creed, color or national origin is recognized as and declared to be a civil right." Mont. Code Ann. sec. 49-1-102 (1981).

"It is an unlawful discriminatory practice for an educational institution: (1) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution because of race, creed, religion, sex, marital status, color, age, physical handicap, or national origin or because of mental handicap, unless based on reasonable grounds; (2) to make or use a written or oral inquiry or form of application for admissions that elicits or attempts to elicit information or to make or keep a record concerning the race, color, sex, marital status, color, age, physical handicap, or national origin or because of mental handicap, of an applicant for admission, except as permitted by regulations of the commission; (3) to

print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, creed, religion, age, physical or mental handicap, sex, marital status, or national origin of an applicant for admission; or (4) to announce or follow a policy of denial or limitation of educational opportunities of a group or its members, through a quota or otherwise, because of race, color or national origin." Mont. Code Ann. sec. 49-2-307 (1981).

NEBRASKA
No. However, state law authorizes local governments to adopt antidiscrimination laws. "Notwithstanding any other law or laws heretofore enacted, all cities and villages in this state shall have the power by ordinance to define, regulate, suppress and prevent discrimination on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin, age or disability in employment, public accommodation, and housing, and may provide for the enforcement of such ordinances by providing appropriate penalties for the violation thereof. It shall not be an unlawful employment practice to refuse employment based on a policy of not employing both husband and wife if such policy is equally applied to both sexes." Neb. Rev. Stat. sec. 18-1724 (R.S. Supp. 1982).

NEVADA
Yes. "It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the state, and to foster the right of all persons reasonably to seek, obtain and hold employment and housing accommodations and reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race . . . color . . . national origin or ancestry." Nev. Rev. Stat. sec. 233.010 (1981).

"All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation without discrimination or segregation on the ground of race, color, religion, national origin or physical or visual handicap." Nev. Rev. Stat. Ann. sec. 651.070 (1981). A place of public accommodation is defined as "[a]ny estab- lishment or other place to which the public is invited or which is intended for public use." Nev. Rev. Stat. sec. 651.050.5 (1979).

"There shall be no discrimination in the admission of students on account of . . . race or color." Nev. Rev. Stat. sec. 396.530 (1979) (Univ. of Nevada only).

NEW HAMPSHIRE

Yes. "It shall be an unlawful discriminatory practice . . . [f]or any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental handicap or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof . . . ." N.H. Rev. Stat. Ann. sec. 354-A:8(4) (Supp. 1981). The definition of the term "place of public accommodation" in sec. 354-A:4(9) (1966) lists hotels, restaurants, public conveyances, theaters and "music or other public hall[s]." Schools are not mentioned.

Educational institutions' loan corporations for higher education student loans may not "discriminate against any person on account of race, creed, national origin, sex or age" in their loans. N.H. Rev. Stat. Ann. sec. 195-E:14 (Supp. 1981).

NEW JERSEY

Yes. "All persons shall have the opportunity to . . . obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation . . . without discrimination because of race, creed, color, national origin, ancestry, age, marital status or sex . . . ." N.J. Stat. Ann. sec. 10:5-4 (West 1976).

"It shall be . . . an unlawful discrimination . . . for any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof . . . on account of the race, creed, color, national origin, ancestry, marital status, sex or nationality of such person . . . ." N.J. Stat. Ann. sec. 10:5-12(f) (West Supp. 1983).

"A place of public accommodation" is defined to include "any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the

supervision of the State Board of Education of the State of New Jersey." N.J. Stat. Ann. sec. 10:5-5(1) (West Supp. 1983). This section does not apply to an educational facility operated by a bona fide religious or sectarian institution. It preserves the right of a parent "to direct the education and upbringing of a child under his control."

"No child between the ages of four and 20 years shall be excluded from any public school on account of his race, creed, color, national origin or ancestry." N. J. Stat. Ann. sec. 18A:38-5.1 (West 1968). Also, "No pupil in a public school in this state shall be discriminated against in admission to, or obtaining any advantages, privileges or courses of study of the school by reason of race, color, creed, sex or national origin. N.J. Stat. Ann. sec. 18A:36-20 (West Supp. 1983).

NEW MEXICO

Yes. "It is an unlawful discriminatory practice for . . . any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any individual because of race, religion, color, national origin, ancestry, sex or physical handicap." N.M. Stat. Ann. sec. 28-1-7(F) (1978).

A "public accommodation" is "any establishment that provides or offers its services, facilities, accommodations, or goods to the public, but does not include a bona fide private club or other place or establishment which is by its nature and use distinctly private." N.M. Stat. Ann. sec. 28-1-2(G) (1978).

But see, Human Rights Commission v. Board of Regents, 624 P.2d 518 (1981) (held, the University of New Mexico is not a public accommodation).

However, "[t]his opinion should be construed narrowly and is limited to the University's manner and method of administering its academic program. We reserve the question of whether in a different set of circumstances the University would be a public accommodation . . . ." 624 P.2d at 520.

NEW YORK

Yes. New York has several different provisions. They are set out here.

"The opportunity to obtain education . . . without discrimination because of age, race, creed, color, national origin, sex or marital status . . . is hereby recognized as and declared to be a civil right." N.Y. Exec. Law sec. 291(2) (McKinney 1982). See also N.Y. Educ. Law sec. 313(1) (McKinney Supp. 1982) (broad nondiscrimination policy statement).

"It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be nonsectarian and exempt from taxation . . . to deny the use of its facilities to any person otherwise qualified, by reason of his race, color, religion, disability, national origin, age or marital status." N.Y. Exec. Law sec. 296(4) (McKinney 1982).

"All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodations . . . . No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any such place shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof . . . on account of race, creed, color or national origin . . . ." N.Y. Civ. Rights Law sec. 40 (McKinney 1976).

A place of public accommodation is defined to include "public libraries, kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York," and any similar institution receiving any public funding. general public . . . ." N.Y. Civ. Rights Law sec. 40 (McKinney 1976).
"All persons within the jurisdiction of this state shall be entitled to the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, creed, color, national origin, sex, marital status or disability . . . be subjected to any discrimination in his civil rights, or to any harassment, as defined in [the criminal law], in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or by any agency or subddivision of the state." N.Y. Civ. Rights Law sec. 40-c (McKinney Supp. 1982).

Among the provisions for sanctions in the civil rights law, is a substantive prohibition against denying "equal employment of any accomodation, facility or privilege

furnished . . . by teachers and officers of common schools . . . " N.Y. Civ. Rights Law sec 44-a (McKinney 1976).

"It shall be an unfair educational practice for an educational institution . . . [t]o exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, creed, sex, color, marital status or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such selection to such members or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained. . . . [or to] accept any endowment or gift of money or property conditioned upon teaching the doctrine of supremacy of any particular race." N.Y. Educ. Law sec. 313 (McKinney 1969 and Supp. 1982).

"No person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance . . . and further provided that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to such members or to make such selection to its pupils as is calculated to promote the religious principle for which it is established." N.Y. Educ. Law sec. 3201 (McKinney 1981) (compulsory education law).

NORTH CAROLINA

Yes. "No person shall be refused admission to or be excluded from any public school in this state on account of race, creed, color or national origin. No school attendance district or zone shall be drawn for the purpose of segregating persons of various races, creeds, colors or national origins from the community." N.C. Gen. Stat. sec. 115C-367 (Supp. 1981).

NORTH DAKOTA
Yes. "It is the policy of this state to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, or status with regard to marriage or public assistance; to prevent and eliminate discrimination in . . . public accommodations . . ., state and local government services . . . ; and to deter those who aid, abet, or induce discrimination, or coerce others to discriminate." N.D. Cent. Code sec. 14-02.4-01 (Supp. 1983) (Human Rights Act).

"It is a discriminatory practice for a person engaged in the provision of public accommodations to fail to provide to a person access to the use of any benefit from the services and facilities of the public assistances (sic); or to give adverse, unlawful, or unequal treatment to a person with respect to the availability to the services and facilities, the price or other consideration therefor, the scope and equality thereof, or the terms and conditions under which the same are made available, because of the person's race, color, religion, sex, national origin, age, physical or mental handicap, or status with respect to marriage or public assistance." N.D. Cent. Code sec. 14-02.4-14 (Supp. 1983).

"It is a discriminatory practice for a person engaged in the provision of public sercies to fail to provide to a person access to the use of and benefit thereof, or to give adverse or unequal treatment to a person in connection therewith because of the person's race, color, religion, sex, national origin, age, physical or mental handicap, or status with respect to marriage or public assistance." N.D. Cent. Code sec. 14-02.4-15 (Supp. 1983).

The term "discriminatory practice" includes "segregation of any persons" and the term "discriminate" includes "segregate." N.D. Cent. Code sec. 14-02.4-02(3) (Supp. 1983). The term "public accommodation" includes "every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or good to the general public for a fee, charge, or gratuity." N.D. Cent. Code sec. 14-02.4-02(10) (Supp. 1983). This would appear to include any public or private schools charging fees. The term "local government services" is not defined, but clearly extends the scope of the law to free public schools.

"A person is guilty of a class B misdemeanor if, whether or not acting under color of law, he, by force, or threat of force or by economic coercion, intentionally: 1. Injures, intimidates, or interferes with another because of his sex, race, color, religion or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public. 2. Injures, intimidates, or interferes with another because of his sex, race, color, religion or national origin in order to intimidate him or any other person from exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public." N.D. Cent. Code sec. 12.1-14-04 (1976) (Criminal Code).

OHIO

Yes. "It shall be an unlawful discriminatory practice . . . for any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race,color, religion, sex, national origin, handicap, age or ancestry the full enjoyment of the accommodations, advantages, facilities or privileges thereof." Ohio Rev. Code Ann. sec. 4112.02 (G) (Page Supp. 1982).

A place of public accommodation is defined as "[A]ny other place of public accommodation, advantages, facilities, or privileges thereof are available to the public." Ohio Rev. Code Ann. sec. 4112.01 (G) (Page 1980).

There are a number of other provisions in the education code:

(1) "No board of education shall discriminate on the basis of sex, race, religion, or national origin when assigning pupils to attendance schedules . . . " Ohio Rev. Code Ann. sec. 3313.486 (Page 1980). (2) "The department of education shall administer a program to support school boards that voluntarily adopt and implement plans of student transfers to desegregate schools within their districts. Ohio Rev. Code An. sec 3301.19 (Page Supp. 1982). (3) "Health and remedial services provided for the benefit of on-public school pupils . . . and the admissions of pupils to such non-public schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers." Ohio Rev. Code Ann. sec. 3317.06 (Page Supp. 1982).

OKLAHOMA

Yes. "Segregation of children in the public schools of the State of Oklahoma on account of race, creed, color, or national origin is prohibited." Okla. Stat. Ann. tit. 70, sec. 1210.201 (West 1972).

"It is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a ""place of public accommodation" because of race, color, religion or national origin." Okla. Stat. Ann. tit. 25, sec. 1402 (West Supp. 1982).

"As used in this Act . . . place of public accommodation includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds . . . ." Okla. Stat. Ann. tit. 25, sec. 1401(1) (West Supp. 1982). This includes schools. See Vantine v. City of Tulsa, 518 P.2d 316 (1973) (advertised private preschool is a place of public accommodation).

OREGON

"No discrimination shall be made in the provision of or access to educational facilities and services to any person in the state institutions . . . on the basis of race, religion, sex, marital status or national origin of the person." Or. Rev. Stat. sec. 179.750(2) (1981).

"No person . . . shall be subjected to discrimination in any public elementary, secondary or community college education program or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly." Or. Rev. Stat. sec. 659.150(2) (1981). For the purpose of this act, "'discrimination' means any act that unreasonably differentiates treatment, intended or unintended, based on age, handicap, national origin, race, marital status, relegion, or sex." Or. Rev. Stat. sec. 659.150(1) (1981).

"All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction,

discrimination or restriction on account of race, religion, sex, marital status, color or national origin." Or. Rev. Stat. sec. 30.670 (1981).

A "place of public accommodation" means any place offering "goods, services, lodgings, amusements or otherwise." Or. Rev. Stat. sec. 30.675 (1981). This appears to include schools.

The State Board of Education is required to adopt rules providing that "no public elementary or secondary school shall discriminate as to sex, race, marital status, religion or national origin in determining participation in interschool activities." Or. Rev. Stat. sec. 326.051(d) (1981).

"(1) The State Board of Education shall encourage the development or implementation of curriculum for public elementary and secondary schools in Oregon that will improve instructional effectiveness or efficiency and that is nondiscriminatory by race, sex, age, marital status, creed or color.

(2) The State Board of Education shall stimulate the development of nondiscriminatory courses of study or parts of courses to improve instructional effectiveness or efficiency in public elementary and secondary schools in Oregon. The board may contract with the Department of Education or other appropriate public educational agencies to develop program materials and to establish a mechanism for the purpose of introducing the materials and implementing the techniques." Or. Rev. Stat. 336.082 (1981). See also Or. Rev. Stat. 336.086 (1981); Or. Rev. Stat. 337.260 (1981).

PENNSYLVANIA

Yes. "The opportunity for an individual . . . to obtain all the accommodations, advantages, facilities and privileges of any place of public accommodation . . . without discrimination because of race, color, religious creed, ancestry, handicap, or disability, age, sex or national origin [is] hereby declared to be [a civil right] which shall be enforceable as set forth in the act." Pa. Stat. Ann. tit. 43, sec. 953 (Purdon Supp. 1983).

"It shall be an unlawful discriminatory practice . . . [f]or any person being the owner lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, resort or amusement to (1) Refuse, withhold from, or deny to any person because of

his race, color, sex, religious creed, ancestry, national origin, or handicap or disability, or to any person due to the use of a guide dog because of the blindness or deafness of the user, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such place of public accommodations, resort or amusement. (2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, color, religious creed, ancestry, national origin or handicap or disability, or to any person due to use of a guide dog because of the blindness or deafness of the user, is unwelcome, objectionable, or not acceptable, desired or solicited." Pa. Stat. Ann. tit. 43, sec. 955 (i) (Purdon Supp. 1983).

"The term 'place of public accommodation, resort or amusement' means any place which is open to, accepts or solicits the patronage of the general public, including but not limited to . . . kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses and all educational institutions under the supervision of this Commonwealth . . . but shall not include any accommodations which are in their nature distinctly private." Pa. Stat. Ann. tit. 43, sec. 954(a) (Purdon Supp. 1983).

PUERTO RICO
Yes. "No person shall be denied in the Commonwealth of Puerto Rico any access, service and like treatment in public places and businesses and in the means of transportation because of any political, religious, race or color question, or because of any other reason not applicable to all persons in general." P.R. Laws Ann. tit. 1, sec. 13 (1982).

RHODE ISLAND
Yes. Under the education code, "[n]o person shall be excluded from any public school on account of race or color, or for being over fifteen (15) years of age, nor except by force of some general regulation applicable to all persons under the same circumstances." R.I. Gen. Laws sec. 16-38-1 (1981).

Under the public accommodations law, "[a]ll persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages,

facilities and privileges of any place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons." R.I. Gen. Laws sec. 11-24-1 (1981).

"No person being owner . . . superintendent . . . or employee of any place of public accommodation . . . shall directly or indirectly refuse, withhold from or deny to any person on account of race or color, religion or country of ancestral origin, physical handicap, age or sex, any of the accommodations, advantages, facilities or privileges thereof . . . ." R.I. Gen. Laws sec. 11-24-2 (1981).

Places of public accommodation include "[h]ospitals, public libraries . . . all public conveyances . . . ." R.I. Gen. Laws sec. 11-24-3 (1981).

SOUTH CAROLINA

Yes. "No person shall be refused admission into or be excluded from any public school in the State on account of race, creed, color or national origin . . . ." S.C. Code Ann., Sec. 59-63-40 (1977).

SOUTH DAKOTA

"It is an unfair or discriminatory practice for any educational institution:

(1) to discriminate in any manner in its full use or in its benefits or in its services against any individual because of race, color, creed, religion, sex, ancestry or national origin.

(2) to include, expel, limit, or otherwise discriminate against any individual seeking admission as a student, or an individual enrolled as a student because of race, color, creed, religion, sex, ancestry or national origin.

(3) to make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, creed, religion, sex, ancestry or national origin of an applicant for admission except as may be permitted by regulations of the commission." S.D. Comp. Laws sec. 20-13-22 (Supp. 1981).

TENNESSEE

"[I]t is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and

accommodations of a place of public accommodation . . . on the grounds of race, creed, color, religion, sex or national origin." Tenn. Code Ann. sec. 4-21-111 (Supp. 1982). A place of public accommodation "includes any place . . . which supplies goods or services to the general public or which . . . is supported directly or indirectly by government funds . . . ." Tenn. Code Ann. sec. 41-1-102(j) (Supp. 1982).

"No person shall be refused admission into or be excluded from any public school in the state of Tennessee on account of race, creed, color, sex or national origin." Tenn. Code Ann. sec. 49-1770 (1977).

But: "No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance . . . ." Tenn. Code Ann. sec. 49-1771 (1977).

TEXAS

Yes. "(a) No officer or employee of the state or of a political subdivision of the state, when acting or purporting to act in his official capacity, may: . . . (5) refuse to permit a person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state, because of the person's race, religion, color, sex, or national origin. . . . (7) refuse to grant a benefit to, or impose an unreasonable burden upon, a person because of the person's race, religion, color, sex, or national origin; . . . ." Texas Civ. Code sec. 6252-16(a)(1)(5), (7) (Supp. 1983).

The State Department of Education is currently under court order to assume civil rights duties that are more detailed and specific than the general statutes. See Civil Action No. 5281, _____ F.2d ____ (5th Cir. 1971).

UTAH

Yes. "All persons within the jurisdiction of this state are free and equal and are entitled to full and equal accommodations, advantages, facilities, privileges, goods and services in all business establishments and in all places of public accommodation, and by all enterprises regulated by the state of every kind whatsoever, without discrimination on the basis of race . . . ancestry or national origin." Utah Code Ann. sec. 13-7-3 (Supp. 1981).

"[P]lace of public accommodation includes every place, establishment, or facility or whatever kind, nature, or class that caters or offers its services, facilities or goods to the general public for a fee or charge . . . ; provided that any place, establishment, or facility that caters or offers its services, facilities or goods to the general public gratuitously shall be within the definition of this term if it receives any substantial government subsidy or support . . . ." Utah Code Ann. sec. 13-7-2(a) (Supp. 1981).

VERMONT
Yes. "An owner or operator of a place of public accommodation or an agent or employee of said owner or operator shall not, because of the race, creed, color or national origin of any person, refuse, withhold from or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation." Vt. Stat. Ann. tit. 13, sec. 1451(a) (Supp. 1982).

"A place of public accommodation includes "any school . . . or any other establishment which caters or offers its services or facilities or goods to the general public." Vt. Stat. Ann. tit. 13, sec. 1451(c) (Supp. 1982).

There are also State Board of Education regulations that prohibit discrimination in schools. "[N]o student and/or public school employee . . . shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal and/or state funds as the result of or based on sex, race, color, creed, national origin, or solely by reason of handicap." State Board of Education Regulations, 1250 (Sept. 1981).

VIRGINIA
No provision.

VIRGIN ISLANDS
Yes. "All natural persons within the jurisdiction of the Virgin Islands, without regard to race, creed, color, or national origin . . . are entitled to . . . the full and equal accommodations, advantages, facilities, and privileges of any place of public accommodation . . . ." V.I. Code Ann. tit. 10, sec. 3(a)(2) (1982).

A place of public accommodation is defined to include public and private schools. V.I. Code An. tit. 10, sec. 2 (1982).

WASHINGTON
Yes. There is a Public Accommodation statute with criminal liability and a "Law Against Discrimination" which also prohibits discrimination in places of public accommodation.

"Every person who denies to any other person because of race, creed, color, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, shall be guilty of a misdemeanor." Wash. Rev. Code sec. 9.91.010(2) (1981) (criminal provision).

"The right to be free from discrimination because of race, creed, color, national origin, or the presence of any sensory, mental or physical handicap is recognized and declared to be a civil right. This right shall include, but not be limited to: . . . [t]he right to full enjoyment of any of the accommodations, advantages, privileges of any place of public resort, accommodation, assemblage or amusement . . . , place of public . . . accommodation . . . ." Wash. Rev. Code sec. 49.60.030(1)(b) (1981) (Law Against Discrimination). See also sec. 49.60.215 (1981). A place of public accommodation includes "any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps . . . ." Wash. Rev. Code sec. 49.60.040 (1981).

WEST VIRGINIA
No provision.

WISCONSIN
"It is the intent of this section to promote fair and friendly relations among all the people in this state, and to that end race, creed or color ought not to be made tests in the matter of the right of any person . . . to enjoy the equal use of public facilities." Wis. Stat. Ann. sec. 66.433(5) (West Supp. 1982).

"No child may be excluded from or discriminated against in admission to any public school or in obtaining the advantages, privileges and courses of study of such

public school on account of sex, race, religion or national origin." Wis. Stat. Ann. 101.255 (West Supp. 1982).

"No person may be excluded from or discriminated against in admission to any public school or in obtaining advantages, privileges, and courses of study of such public school on account of sex, race, religion, physical condition, developmental disability as defined in sec. 51.01(5) or national origin. No separate school or department may be maintained for any person on account of sex, race, religion or national origin . . . ." Wis. Stat. Ann. 118.13 (West Supp. 1982).

WYOMING

Yes. "No child shall be denied the right to attend the public schools of this state on account of . . . race . . . ." Wyo. Stat. sec. 21-4-303 (1977).

"All persons of good deportment within the jurisdiction of this state shall be entitled to the full and equal enjoyment of all accommodations, advantages, facilities and privileges of all places or agencies which are public in nature, or which invite the patronage of the public, without any distinction, discrimination or restriction on account of race, . . . color or national origin." Wyo. Stat. sec. 6-4-610 (1977).

TABLE 5

DOES THE STATE HAVE A STATUTE PROHIBITING UNINTENTIONAL, OR DE FACTO RACE SEGREGATION IN THE PUBLIC SCHOOLS?

ALABAMA
Not applicable. There is no state statute forbidding race discrimination in education.

ALASKA
No. The discrimination must be willful for an unlawful discriminatory practice. See Alaska Stat. sec. 18.80.270 (1981).

AMERICAN SAMOA
Not applicable. There is no state statute forbidding race discrimination in education.

ARKANSAS
No provision.

ARIZONA
Yes. "No person shall, directly or indirectly, refuse to, withhold from, or deny to any person, nor aid in or incite such refusal to deny or withhold, accommodations, advantages, facilities or privileges thereof because of race, color, creed, national origin, or ancestry . . . ."
Ariz. Rev. Stat. sec. 41-1442(B) (1974).

CALIFORNIA
No. See Cal. Educ. Code sec. 229 (Supp. 1983) (making it clear the provisions to do not require preferential or disparate treatment "on account of an imbalance which may exist"). See also the equal protection clause. Calif Const. art. I, sec. 7. This clause, enacted by referendum, also reverses a California judicial interpretation of California law that had found that unintentional segregation violated the state constitution. The reversal was upheld in Crawford v. Board of Education, 102 S. Ct. 3211 (1982).

COLORADO
Yes. "It is a discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny" equal

use of places of public accommodation. Colo. Rev. Stat. sec. 24-34-601(2) (1982).

CONNECTICUT
No provision.

DELAWARE
No provision. However, "[t]his chapter shall be liberally construed to the end that the rights herein provided for all people without rega to race, age, marital status, creed, color, sex or national origin may be effectively safeguarded." Del. Code Ann. tit. 6, sec. 4502 (1974).

DISTRICT OF COLUMBIA
Yes. "Any practice which has the effect or consequence of violating any of the provisions of this chapter shall be deemed to be an unlawful discriminatory practice." D.C. Code Ann. sec. 1-2532 (1981).

FLORIDA
Not applicable. There is no state statute forbidding race discrimination in education.

GEORGIA
No provision.

GUAM
No provision.

HAWAII
Not applicable. There is no state statute forbidding race discrimination in education.

IDAHO
No. Under the human rights law, a violation occurs if a person "denies to any other person" his or her right to be free of discrimination. The act specifies what is a "prohibited act." This implies intentional acts and policies. See, Idaho Code secs. 18-7303 (1979); 67-5909 (Supp. 1982). However, the Idaho Supreme Court has recognized the possibility of a "prima facie case of illegal discrimination under the disparate impact theory." Bowles v. Keating, 100 Idaho 808, 606 P.2d 458 (1979).

There is no provision under the public accommodations law.

ILLINOIS
There is no provision under the civil rights law.

In Tometz v. State Board of Ed., 237 N.E. 2d 498 (1968) the Armstrong Act (education code) was construed to prohibit de facto discrimination. Its elimination is left to the local school boards, the State Board of Education is not allowed to deal with it. See Aurora East Public School District v. Cronin, State Superintendnet of Education, 92 Ill. 2d 313 (1982).

INDIANA
No. For a claim of discrimination to be sufficient, the motivation to discriminate must be shown. When the civil rights commission concluded that "intent to discriminate" was not shown by a preponderan of the evidence, the complaint failed as a matter of law to establish an unlawful discriminatory practice under the Indiana civil rights law. Indiana Bell Telephone Co. v. Boyd, 421 N.E.2d 660 (1981).

IOWA
No provision. See, Op. Atty. Gen., July 13, 1982 (implicit in every complaint of 'discrimination' is an allegation of an intentional violation of the Iowa Civil Rights Act.)

KANSAS
Yes. It is unlawful practice to "directly or indirectly" discriminate in denying rights and privileges in a place of public accommodation.
See Kan. Stat. Ann. sec. 44-1009(c)(1) (1980).

KENTUCKY
Yes. "'Discrimination' means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or the aiding, abetting, inciting, coercing or compelling thereof." Ky. Rev. Stat. Ann. sec. 344.010(4) (1983).

This section has been construed to mean that racial discrimination may be shown by either discriminatory purpose or discriminatory effect; actual intent need not

be proven. See, Middlesboro Hous. Auth. v. Kentucky Comm'n on Human Rights, 553 S.W.2d 57 (Ky. Ct. App. 1977).

LOUISIANA
No.

MAINE
Yes. It is unlawful to "directly or indirectly refuse, withhold from or deny . . . any of the public accommodations . . . ." Me. Rev. Stat. Ann. tit. 5, sec. 4592 (1979).

MARYLAND
No provision.

MASSACHUSETTS
Yes. The Racial Imbalance Act prohibits de facto discrimination. An illegal racial imbalance exists whenever in a public school "more than fifty percent of the pupils attending such school are non-white." Mass. Gen. Laws Ann. ch. 71, sec. 37D (West 1982).

Second, under the special education provision, a statistical pattern of assignment on the basis of sex, national origin, economic status, race or religion constitutes a prima facie denial of equal educational opportunities. Mass. Gen. Laws Ann. ch. 71B, sec. 6 (West 1982).

De facto discrimination is not prohibited under either the unfair educational practices law or the school attendance provision.

MICHIGAN
No provision. See Mich. Comp. Laws sec. 37.2402 (West Supp. 1982).

MINNESOTA
No provision in either human rights statutes or education code.

MISSISSIPPI
No provision.

MISSOURI
Yes. The public accommodations law prohibits discrimination either

"directly or indirectly."
Mo. Ann. Stat. sec. 314.030(1) (Vernon Supp. 1983).

MONTANA
No provision.

NEBRASKA
Not applicable. There is no state statute forbidding race discrimination in education.

NEVADA
No provision.

NEW HAMPSHIRE
No provision.

NEW JERSEY
Yes. The public accommodations law prohibits a refusal to serve "directly or indirectly." N.J. Stat. Ann. sec. 10:5-12(f) (West Supp. 1983).

NEW MEXICO
Yes. It is unlawful discriminatory practice for "any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services . . . ." N.M. Stat. Ann. sec. 28-1-7(F) (1978).

NEW YORK
Yes. The civil rights law prohibits any person from "directly or indirectly" refusing or withholding the benefits of any place of public accommodation. N.Y. Civ. Rights Law sec. 40 (McKinney 1976).

NORTH CAROLINA
No provision.

NORTH DAKOTA
No. In the criminal code, see N.D. Cent. Code sec. 12-1-14-04 (1976) (violations must be identified).

Implied under the Human Rights Act. "Discriminatory Practice means an act or attempted act which . . . results in unequal treatment." See N.D. Cent. Code sec. 14-02.4-02(3) (Supp. 1983).

OHIO
There is no provision under the public accommodations law. However, a public official must act knowingly in depriving another of a constitutional or statutory right. This "[i]s designed to protect public officials who act in the honest belief that their actions are authorized or required by law but whose conduct is later determined not to have been authorized or required." Ohio Rev. Code Ann. sec. 2921.45 (Committee Comment) (Page 1980).

There is no provision in the education code.

OKLAHOMA
No provision. See Okla. Stat. Ann. tit. 70, sec. 1210.201 (Wst 1972) (education law); tit. 25, sec. 1402 (West Supp. 1982) (public accommodations law).

OREGON
Yes. Under the prohibition against discrimination in education law. "'[D]iscrimination' means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation . . . ." Or. Rev. Stat. sec. 659.150(1) (1981).

PENNSYLVANIA
Yes. "It is an unlawful discriminatory practice to [r]efuse, withhold from any person because of his race . . . , either directly or indirectly, any of the accommodations . . . of such place of public accommodations . . . ." Pa. Stat. Ann. tit. 43, sec. 955(i)(1) (Purdon Supp. 1983).

PUERTO RICO
No provision.

RHODE ISLAND
There are no provisions under the education code or the public accommodation law.
See R.I. Gen. Laws sec. 11-24-1 and 16-38-1 (1981).

SOUTH CAROLINA
No provision.

SOUTH DAKOTA
Yes. "'Unfair or discriminatory practice' means any act or attempted act which because of race, color, creed, religion, sex, ancestry or national origin results in the unequal treatment or separation or segregation of any person, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit or otherwise adversely affect, the benefit of enjoment by any person of . . . Education . . . ." S.D. Comp. Laws sec. 20-13-1(14) (1979).

TENNESSEE
Yes. "Discriminatory practices means any direct or indirect act or practice . . . of differentiation or preference . . . ." Tenn. Code Ann. sec. 4-21-102(e) (Supp. 1982).

TEXAS
No. The only applicable race discrimination law is a criminal law, and criminal actions discrimination must be intentional. See, Tex. Civ. Code 6252-16(3)(1970).

UTAH
No provision.

VERMONT
No provision.

VIRGINIA
No provision.

VIRGIN ISLANDS
Yes. "[I]t is the intent of this chapter to prevent and prohibit discrimination in any form based upon race, creed, color, or national origin, whether practiced directly or indirectly . . . ." V.I. Code Ann. tit. 10, sec. 1 (1982).

WASHINGTON
Yes. Under the Law Against Discrimination, "'[f]ull enjoyment of' includes . . . acts directly or indirectly causing persons of any particular race, creed, color or with any sensory, mental, or physical handicap, or a blind or deaf person using a trained dog guide to be treated as not welcome, accepted, desired or solicited." Wash. Rev. Code sec. 49.60.040 (1981).

This law also makes it an "unfair practice . . . to commit an act which directly or indirectly results in . . . discrimination . . . [p]rovided that behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice." Wash. Rev. Code sec. 49.60.215 (1981).

WEST VIRGINIA
No provision.

WISCONSIN
No provision.

WYOMING
No.

TABLE 6

DO STATE LAWS PROVIDE FOR A PRIVATE RIGHT OF ACTION?

ALABAMA
Not applicable. There is no state statute forbidding race discrimination in education.

ALASKA
Yes. For an unlawful discriminatory practice, a complaint may be made to the state Commission for Human Rights. Alaska Stat. sec. 18.80.100 (1974).

Judicial review of commission orders may be obtained. Alaska Stat. sec. 18.80.135 (1974). However, "[t]he acquittal of a person by the commission or a court of competent jurisdiction of any alleged violation of this chapter is a bar to any other action, civil or criminal, based on the same act or ommission." Alaska Stat. sec. 18.80.280 (1981).

Under the public accommodations law, private actons are also contemplated: "The superior court is the court of original jurisdiction over all causes of action [alleging a violation of civil rights] . . . . A person who is injured or aggrieved by an act, practice or policy which is prohibited [as a violation of civil rights] may apply to the superior court for relief. The person aggrieved or injured may maintain an action on his own behalf or on behalf of a class consisting of all persons who are aggrieved or injured by the act, practice or policy giving rise to the action . . . ." Alaska Stat. sec. 22.10.020(c) (1980).

AMERICAN SAMOA
Not applicable. There is no state statute forbidding race discrimination in education.

ARKANSAS
No provision.

ARIZONA
Yes. "If, upon investigation, the division [of civil rights] determines that no unlawful discriminatory practice or act has occurred, the division shall notify the charging party and the respondent in writing of this fact and the charging party may within

thirty days thereafter file a complaint with the superior court in the county where the alleged discriminatory practice or act occurred." Ariz. Rev. Stat. sec. 41-1471(B) (Supp. 1982).

CALIFORNIA
No specific provision. However, the fund withholding statute indicates that the fund withholding sanction "shall be in addition to any other prohibitions and sanctions imposed by law." Cal. Gov. Code sec. 11149 (1980). The education code provisions are silent on this point. Cal. Educ. Code sec. 240, 250, 260, 262, 51004, 51500, 51500-52501, 60040 (1978).

COLORADO
Yes. "Any person claiming to be aggrieved by a discriminatory or unfair practice . . . may . . . make, sign, and file with the commission a verified written charge . . . which shall set forth the particulars thereof . . ." Colo. Rev. Stat. sec. 24-34-306(1)(1982).

"Any person who violates any of the provisions . . . for every such offense, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars to the person aggrieved thereby to be recovered in any court of competent jurisdiction in the county where said offense was committed . . . . A judgment in favor of the party aggrieved or punishment upon an indictment or information shall be a bar to either prosecution, respectively; but the relief provided by this section shall be an alternative to that authorized by section 24-34-306(9), and a person who seeks redress under this section shall not be permitted to seek relief from the commission." Colo. Rev. Stat. sec. 24-34-602 (1982).

CONNECTICUT
Yes. Under the general education provisions and the public accomodations provisions of the civil rights laws a private right of action is permitted. Conn. Gen. Stat. Ann. sec. 46a-99 (West Supp. 1983) (general education provisions); Conn. Gen. Stat. Ann. sec. 46a-95(j) (West Supp. 1983) (civil rights law).

Individuals claiming a violation of the school discrimination law can file individual complaints with the state board of education. Conn. Gen. Stat. Ann. sec. 10-4b(a) (West Supp. 1983)

DELAWARE
Yes. "Any complainant aggrieved by a dismissal of a complaint . . . shall have a right of appeal to the Superior Court of the state in and for the county in which the unlawful act is alleged to have occurred by filing a complaint in such court." Del. Code Ann. tit. 6, sec. 4513 (1974).

DISTRICT OF COLUMBIA
Yes. "Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate, unless such person has filed a complaint hereunder: Provided, that where the Office (of Human Rights) has dismissed such complaint on the ground of administrative convenience, or where the complainant has withdrawn a complaint, such person shall maintain all rights to bring suit as if no complaint had been filed. D.C. Code Ann. sec. 1-2556 (1981).

FLORIDA
Not applicable. There is no state statute forbidding race discrimination in education.

GEORGIA
No provision.

GUAM
No provision.

HAWAII
Not applicable. There is no state statute forbidding race discrimination in education.

IDAHO
Yes. Under the human rights law, an individual may take the matter directly to district court. Idaho Code sec. 67-5908 (2) (1980).

Under the public accommodations law there are no private actions. See Idaho Code sec. 18-7303 (1979).

ILLINOIS

Yes. Under the civil rights law, the hearing before the Human Rights Commission is subject to judicial review, as are complaints of noncompliance, however, "[e]xcept as . . . provided . . . no court of this state shall have jurisdiction over the subject of an alleged civil rights violation . . ." Ill. Ann. Stat. ch. 68, para. 8-111(D) (Smith-Hurd Supp. 1983).

The administrative remedy provided by the school code - III. Ann. stat. ch. 122, para. 22-19 (Smith-Hurd Supp. 1983) indicates that school boards shall change attendance units within their districts so as to prevent segregation because of color, race or national origin. In Rajala v. Joliet Grade School District No. 86, 246 N.E.2d 74 (1969) this administrative remedy did not have to be pursued prior to a student's action in state court to enforce the act.

INDIANA
No provision.

IOWA
Yes. "Though the Iowa Civil Rights Act provides only criminal penalties for violations thereof, a person aggrieved by violation thereof may maintain a civil action for damages." Amos v. Prom, Inc., 117 F. Supp. 615, appeal dismissed, 214 F.2d 350 (1954). However, "[a] claim under this chapter shall not be maintained unless a complaint is filed with the commission . . . ." Iowa Code sec. 601A.15(12) (West Supp. 1983).

Commission decisions are subject to judicial review. See Iowa Code sec. 601A(7) (West Supp. 1983).

KANSAS
No provision. But see Kan. Stat. Ann. sec. 44-1001 - 44-1043 (1980). Any claim made under the Kansas acts against discrimination must first be made to the Civil Rights Commission. After the commission has issued a "nonprobable cause" ruling, an independent civil action may be filed. See Van Scoyk v. St. Mary's Assumption Parochial School, 224 Kan. 304, 580 P.2d 1315 (1980).

KENTUCKY
Yes. "A complainant, respondent, or intervenor aggrieved by an order of the commission [on human rights], including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review . . . ." Ky. Rev. Stat. Ann. sec. 344.240(1) (1983).

LOUISIANA
Yes. "All cases brought for the purpose of vindicating, asserting or maintaining the rights, privileges and immunities guaranteed to all persons under the provisions of [art. 1, sec. 12] of the Constitution of Louisiana, or under the provisions of any acts of the Legislature to enforce this [art. 1, sec. 12,] and to regulate the licenses therein mentioned, or for the purpose of recovering damages for the violation of said rights, privileges and immunities, shall be tried by the court, or by a jury, if any party to the suit prays for a trial by jury." La. Rev. Stat. Ann. sec. 13:4791 (1968).

MAINE
Yes. "[A] person who has been subject to unlawful discrimination may file a civil action in the Superior Court against the person or persons who committed the unlawful discrimination." Me. Rev. Stat. Ann. tit. 5, sec. 4621 (Supp. 1983).

"Any person who believes he has been subject to unlawful discrimination, or any employee of the commission, may file a complaint under oath with the commission . . . ." Me. Rev. Stat. Ann. tit. 5, sec. 4611 (1979).

MARYLAND
Yes. "A denial of the request for reconsideration of a finding of no probable cause by the Commission is a final order appealable to the circuit court . . . ." Md. Ann. Code art. 49B, sec. 10 (Supp. 1982).

MASSACHUSETTS
Yes. Any party aggrieved by a final order of the Massachusetts Commission Against Discrimination may obtain judicial review. Mass. Gen. Laws Ann. ch. 151C, sec. 4 (West 1982) (prohibiting "unfair" educational practice").

There is a private right of action against a town or regional school district "in tort" under the school attendance provision. Mass. Gen. Laws Ann. ch. 76, sec. 16 (West 1982).

The Racial Imbalance Act provides for a private cause of action to enforce its terms. Mass. Gen. Laws Ann. ch. 71, sec. 37D (West 1982).

Any person can bring suit under the special education law provision only after the continuation without elimination of a prima facie denial of equal educational opportunities for two consecutive years. Mass. Gen. Laws Ann. ch. 71B, sec. 6 (West 1982).

MICHIGAN
Yes. "A person alleging a violation of this [civil rights] act may bring a civil action for appropriate injunctive relief, damages, or both." Mich. Comp. Laws Ann. sec. 37.2801 (West Supp. 1983).

MINNESOTA
Yes. "A person may bring a civil action seeking redress for an unfair discriminatory practice, upon withdrawal of the complaint from the department of human rights, at the following times: a) within 45 days after the commissioner has determined that there is no probable cause to credit the allegations . . . or b) after 45 days if a hearing has not bee held or if the commissioner has not entered into a conciliation agreement to which the charging party is a signatory . . . ." The action shall be filed in county district court. Minn. Stat. sec. 363.14(1) (Supp. 1983). There is no provision in the education code.

MISSISSIPPI
No provision.

MISSOURI
Yes. "Any person claiming to be aggrieved by an unlawful discriminatory practice may make, sign and file with the Commission a verified complaint in writing . . . ." Mo. Ann. Stat. sec. 314.060(1) (Vernon Supp. 1983).

"Any person who is aggrieved by a final decision, finding, rule or order of the Commission may obtain judicial review by filing a petition in the circuit court of the county of proper venue within thirty days after the mailing or delivery of the notice of the Commission's final decision." Mo. Ann. Stat. sec. 314.070(3) (Vernon Supp. 1983).

MONTANA
Yes. The civil rights law provides for private actions. See Mont. Code Ann. sec. 49-2-501 (1981).

A complaint alleging unlawful discriminatory practice must be pursued before the Montana Commission for Human Rights. "A complaint may be filed by or on behalf of any person claiming to be aggreived by any discriminatory practice prohibited by this Chapter." Mont. Code Ann. sec. 49-2-501(1) (1981). See also Mont. Code Ann. 49-2-507 (1981). (Commission may obtain order to enforce its orders.)

NEBRASKA
Not applicable. There is no state statute forbidding race discrimination in education.

NEVADA
Yes. "Any person who: (a) withholds, denies, deprives or attempts to withhold, deny or deprive any other person of any right or privilege secured by NRS 651.070; . . . is liable to the person whose rights under NRS 651.070 are affected for actual damages for any economic loss and no more, to be recovered by a civil action in a court in and for the county in which the infringement of civil rights occurred or in which the defendent resides . . . ." A court may award costs and reasonable attorney's fees to the prevailing party. Nev. Rev. Stat. sec. 651.090.

NEW HAMPSHIRE
Yes. An individual can obtain judicial review of the commission's order, but only after exhausting the commission's administrative procedures. N.H. Rev. Stat. Ann. secs. 354-A:10,13 (1966 & Supp. 1981).

NEW JERSEY
Yes. N.J. Stat. Ann. sec. 10:5-13 (West Supp. 1983). (the public accomodations law).

There is no provision for private suits under the education law. See N.J. Stat. Ann. sec. 10:5-5(l) (West Supp. 1983).

NEW MEXICO
Yes. An individual may file a complaint with the state human rights commission, and may obtain a new trial in court by filing a notice of appeal within 30 days of service of commission's order. N.M. Stat. Ann. secs. 28-1-10, 28-1-13 (1978 and Supp. 1982).

NEW YORK
Yes. The civil rights law provides for a private cause of action. N.Y. Civ. Rights Law secs. 40-d, 41 (McKinney 1976 & Supp. 1982).

The executive law provides for a private right of action. N.Y. Exec. Law sec. 297(9) (McKinney 1982).

There is a private cause of action for judicial review of any finding concerning an "unfair educational practice." N.Y. Educ. Law sec. 313(6) (McKinney 1969).

A nondiscrimination provision in the compulsory education law does not appear to provide for a private right of action; it does provide, however, for criminal prosecution and state withholding of funds. N.Y. Educ. Law secs. 3233, 3234 (McKinney 1981).

NORTH CAROLINA
No provision.

NORTH DAKOTA
Yes. "Any person claiming to be aggrieved by a discriminatory practice in violation of (the Human Rights Act) may bring an action in the district court . . . in any district . . . in which the unlawful practice is alleged to have been committed . . . ." N.D. Cent. Code sec. 14-02.4-19 (Supp. 1983).

No provision in criminal statute.

OHIO
Yes. Under the public accommodations law, "in such circumstances as the court deems just, the court under which this civil action has been brought (common pleas court) may appoint an attorney for the plaintiff and may authorize the commencement of a civil action . . . " Ohio Rev. Code Ann. sec. 4112.051 (D) (Page 1980).

There is no provision in the education code.

OKLAHOMA
"A person, . . . the Attorney General, a nonprofit organization chartered for the purpose of combatting discrimination or a member of the Commission may file a complaint with the [Human Rights Commission.]" Okla. Stat. Ann. tit. 25, sec. 1502 (West Supp. 1982) (public accommodations law). This statute does not specify an

alternative means of obtaining relief or allow appeals from commission orders. "If the Commission determines that the respondent has not engaged in a discriminatory practice, the commission shall . . . dismiss the complaint by order and furnish a copy of the order to the complainant, the respondent and the Attorney General." Okla. Stat. Ann. tit. 25, sec. 1504 (West Supp. 1982). There is no provision for a private cause of action under the education code. See Okla. Stat. ann. tit. 70, sec. 1210.101 (West 1972).

OREGON
Yes. Under the public accommodations law, "[a]ll persons against whom any distinction, discrimination or restriction on account of race . . . color or national oriin has been made by any place of public accommodation . . . by any person acting on behalf of such place or by any person aiding or abetting such place or person . . . shall have a cause of action to recover compensatory and punitive damages from the operator or manager of such place . . . ." Or. Rev. Stat. sec. 30.680 (1981).

There is no private cause of action under the prohibition against discrimination in education. See Or. Rev. Stat. sec. 659.105; 659.150--.155 (1981).

PENNSYLVANIA
Yes. "Any person claiming to be aggrieved by an alleged unlawful discriminatory practice may make, sign and file with the Commission a verified complaint . . . ." Pa. Stat. Ann. tit. 43, sec. 459(a) (Purdon Supp. 1983).

"When the Commission has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in court . . . ." Pa. Stat. Ann. tit. 43, sec. 960 (Purdon Supp. 1983).

PUERTO RICO
Yes. "Any person aggrieved by any violation of [the Civil Rights Act] may bring the corresponding civil action in a competent court for the damages such violation may have caused him." P.R. Laws Ann. tit. 1, sec. 14 (1982).

RHODE ISLAND
No provision. There are no provisions under the public accommodations law or the education code. See R.I. Gen. Laws sec. 11-24-1 and 16-38-1 (1981).

SOUTH CAROLINA
No provision.

SOUTH DAKOTA
Yes. "Any charging party or respondent claiming to be aggrieved by a final order of the commission, including a refusal to issue an order, may obtain judicial review thereof. The commission may obtain an order of court for the enforcement of commission orders . . . ." S.D. Comp. Laws Ann. sec. 20-13-47 (Supp. 1983).

TENNESSEE
Yes. "Any person . . . injured by any act in violation of the provisions of this chapter shall have a civil cause of action in chancery court to enjoin further violations, and to recover the actual damages sustained by him or her, together with the costs of the law suit . . . all of which shall be in addition to any other remedies contained in this chapter." Tenn. Code Ann. sec. 4-21-124 (1979).

TEXAS
Yes. "Whenever a person has engaged . . . in an act or practice prohibited by . . . [the anti-discrimination] Act, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggreived."
Texas Civ. Code sec. 6252-16(2) (Supp. 1983).

UTAH
Yes. "Any person who is denied the . . . [free and equal accommodations] shall have a civil action for damages and any other remedy available in law or equity against any person who denies him the rights . . . or who aids, incites or conspires to bring about such denial." Utah Code Ann. sec. 13-7-4(c) (Supp. 1981).

VERMONT
Yes. "Any party who believes he is aggrieved by final order of the commission,including refusal to issue a complaint, may appeal . . . from the order of the commission to the county court of the county wherein the alleged unlawful discriminatory practice was committed. . . ." Vt. Stat. Ann. tit. 13, sec. 1467 (1974).

VIRGINIA
No provision.

VIRGIN ISLANDS
Yes. Whoever violates the civil rights act will be "liable in actual damages . . . to be recovered in a civil action by the person aggrieved . . . ." V.I. Code Ann. tit. 10, sec. 7 (1982).

WASHINGTON
Yes. Under the Law Against Discrimination, "[a]ny person deeming himself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction . . . ." Wash. Rev. Code sec. 49.60.030(2) (1981).

A complaint may also be made to the Washington State Human Rights Commission, and the complainant has a right to appeal a commission decision to court. Wash. Rev. Code sec. 49.60.270 (1981).

There is no provision under the public accommodations criminal law. See Wash. Rev. Code sec. 9.91.010(2) (1981).

WEST VIRGINIA
Yes. "[A] complainant may institute an action against a respondent in the county wherein the respondent resides or transacts business at any time within ninety days after the complainant is given notice of a right to sue. . . . If a suit is filed under this section the proceedings pending before the commission shall be deemed concluded. . . ." W. Va. Code sec. 5-11-13(b) (Supp. 1983).

WISCONSIN
No provision.

WYOMING
No. See, Wyo. Stat. secs. 6-4-610, 6-4-611 (1977).

TABLE 7

DO STATE OFFICIALS HAVE ENFORCEMENT AUTHORITY UNDER STATE LAWS PROVIDING FOR EQUITY IN THE SCHOOLS? IF SO, WHO HAS THIS ENFORCEMENT AUTHORITY?

ALABAMA
Not applicable. There is no state statute forbidding race discrimination in education.

ALASKA
Yes. The state Commission for Human Rights is responsible for enforcement of unlawful discriminatory practices. Alaska Stat. Secs. 18.80.010 (1974).

AMERICAN SAMOA
Not applicable. There is no state statute forbidding race discrimination in education.

ARKANSAS
Yes. The director of the State Department of Finance and Administration may impound funds to discriminatory agencies. Ark. Stat. Ann. sec. 17-2007 (1980).

ARIZONA
Yes. Enforcement lies with the Division of Civil Rights. Ariz. Rev. Stat. Yes. sec. 41-1402 (Supp. 1982).

CALIFORNIA
Yes. Primary responsibility for provisions relating to nondiscrimination in instructional materials is with the governing board of a school district or community college district. Cal. Educ. Code secs. 240, 260, 262 (Supp. 1983). Local school districts must follow the requirements of section 11138 of the Government Code, (See sec. 260). The state agency must review assurances of compliance before releasing state funds. Cal. Educ. Code sec. 250 (Supp. 1983). There are also provisions for review of complaints by community college districts (Cal. Educ. Code sec. 2621(b)(1)(1978)), and for monitoring compliance by local school districts. (Cal. Educ. Code sec. 260 (Supp. 1983)). Community college districts must review complaints following requirements

found in the California Administrative Code. Cal. Adm. Code, title 5, sec. 59328 (1980).

COLORADO
The Colorado civil rights commission has enforcement responsibility. Colo. Rev. Stat. sec. 24-34-305 (1982).

CONNECTICUT
Yes. The state commission on human rights and opportunities has enforcement responsibility for the education and public accommodations provisions of the civil rights law. Conn. Gen. Stat. Ann. sec. 46a-82 (West Supp. 1983).

The state board of education has enforcement responsibility for the school discrimination law. Conn. Gen. Stat. Ann. sec. 10-4b (West Supp. 1983).

DELAWARE
Yes. The State Human Relations Commission has enforcement responsibility. Del. Code Ann. tit. 6, sec. 4505 (1974).

DISTRICT OF COLUMBIA
Yes. The District of Columbia Office of Human Rights and the District of Columbia Commission on Human Rights share enforcement responsibility. D.C. Code Ann. sec. 1-2541 (1981).

FLORIDA
Not applicable. There is no state statute forbidding race discrimination in education.

GEORGIA
No provision.

GUAM
No provision.

HAWAII
Not applicable. There is no state statute forbidding race discrimination in education.

IDAHO
Yes. The Human Rights Commission has enforcement authority under the human rights law. Idaho Code sec. 67-5907 (1980).

Under the public accommodations law the local prosecutor is responsible for initiating an action. See Idaho Code sec. sec. 18-7303 (1979).

ILLINOIS
No provision.

INDIANA
Yes. The Indiana Commission on Civil Rights has enforcement authority. See generally, Ind. Code. Ann. sec. 22-9-1-6 (Burns Supp. 1982).

IOWA
Yes. Either the Civil Rights Commission or the Attorney General have the power to issue complaints, if there is probable cause that someone is in violation of the civil rights law. See generally, 601A.5(1-12) (1981).

The state board of public instruction and the state superin- tendent of public instruction are responsible for ensuring the educational programs are multicultural and nonsexist. Iowa Code sec. 257.25 (West Supp. 1983).

KANSAS
Yes. The Kansas Commission on Civil Rights is the enforcement agency.
Kan. Stat. Ann. sec. 44-1003 (1980).
The attorney general may also file a complaint on his/her own initiative. Kan. Stat. Ann. sec. 44-1005 (1980).

KENTUCKY
Yes. Enforcement responsibility lies with a commission on human rights. Ky. Rev. Stat. Ann. secs. 344.150 - 344.230 (1983).

LOUISIANA
Yes. "The governor may establish within his office an office of civil rights to merge, consolidate, and administer the powers, duties, functions, and responsibilities of any state agency relative to equal

employment opportunity and nondiscrimination in the provision of state services under the applicable state and federal statues. It shall be the duty of such office to establish procedures where applicable to carry out such functions and responsibilities, including but not limited to procedures for investigation of an action on complaints regarding equal employment opportunity and discrimination in state services under the applicable state and federal statutes, and planning therefor." Under this provision, Louisiana has an Office of Minority Affairs. La. Rev. Stat. Ann. sec. 49:213 (Supp. 1983).

MAINE
Yes. The Maine Human Rights Commission "has the duty of investigating all conditions and practices within the State which allegedly detract from the enjoyment, by each inhabitant of the State, of full human rights and personal dignity." Me. Rev. Stat. Ann. tit. 5, sec. 4566 (1979).

MARYLAND
Yes. Enforcement responsibility lies with the Commission on Human Relations. Md. Ann. Code art. 49B, secs. 1 through 30 (1978 and Supp. 1982).

MASSACHUSETTS
Yes. The Massachusetts Commission Against Discrimination is responsible for enforcing the unfair educational practice provision. Mass. Gen. Laws Anr. ch. 151C, sec. 3 (West 1982).

The state board of education enforces the Racial Imbalance Act. Mass. Gen. Laws Ann. ch. 71, sec. 37D (West 1982).

The attorney general, and the state department of education, are responsible for enforcing the special education law provision. Mass. Gen. Laws Ann. ch. 71B, sec. 6 (West 1982).

MICHIGAN
Yes. State enforcement responsibility lies with the Civil Rights Commission. Mich. Comp. Laws Ann. sec. 37.2601 through 37.2606 (West Supp. 1983). This chapter includes description of duties, handling complaints, sanctions and remedies. The Attorney General represents the Commission. Mich. Comp. Laws Ann. sec. 37.2602(b)

(West Supp. 1983).

MINNESOTA
Yes. Enforcement is the responsibility of the Human Rights Commission. If the respondent fails to comply with the commissioner's order, the commissioner may file with the clerk of the district court where the initial hearing was held a petition requesting the court to order the respondent's compliance. Minn. Stat. sec. 363.091 (Supp. 1983).

There is no provision in the education code.

MISSISSIPPI
No provision.

MISSOURI
Yes. "The Missouri commission on human rights has the duty (1) To seek to eliminate and prevent discrimination in places of public accommodation . . . . Mo. Ann. Stat. sec. 314.050(1) (Vernon Supp. 1983).

"The attorney general may . . . make, sign and file [a complaint before the Missouri commission on human rights]." Mo. Ann. Stat. sec. 314.060. (Vernon Supp. 1983).

MONTANA
Yes. For unlawful discriminatory practices, the state enforcement responsibility rests with the Montana Commission for Human Rights. Mont. Code Ann. secs. 49-2-201 through 49-2-204 (1981).

NEBRASKA
Not applicable. There is no state statute forbidding race discrimination in education.

NEVADA
Yes. Enforcement responsibility lies with the Nevada Equal Rights Commission. Nev. Rev. Stat. secs. 233.010 through 233.210 (1979 & 1981).

NEW HAMPSHIRE
Yes. The New Hampshire commission for human rights is responsible for enforcement. N.H. Rev. Stat. Ann. sec. 354-A:9 (1966 & Supp. 1981).

NEW JERSEY
Yes. The Division on Civil Rights and the Attorney General in the Department of Law and Public Safety have enforcement responsibilities. N.J. Stat. Ann. secs. 10:5-6 through 10:5-8 (West 1976). However, "[u]pon a finding that the public interest may be better served thereby," the Attorney General may delegate enforcement responsibilities to county or municipal civil rights offices where the population is at least 200,000. N.J. Stat. Ann. secs. 10:5-14.2 and 10:5-14.3 (West Supp. 1983). Presumably the local prosecutor is responsible under the criminal provision found in the school law. See N.J. Stat. Ann sec. 18A:38-5.1 (West 1968).

NEW MEXICO
Yes. The general enforcement authority lies with the human rights commission. The attorney general is responsible for enforcement of commission orders at the request of the commission. N.M. Stat. Ann. sec. 28-1-12 (1978).

NEW YORK
Yes. The division of human rights in the executive department has enforcement responsibility for the executive law. N.Y. Exec. Law sec. 295 (McKinney 1982).

The commissioner of education is responsible for supervising the enforcement of the nondiscrimination provision in the compulsory education law. N.Y. Educ. Law sec. 3234 (McKinney 1981).

The commissioner of education and the board of regents have enforcement responsibilities for "unfair educational practices." N.Y. Educ. Law sec. 313(5) (McKinney 1969).

NORTH CAROLINA
No provision.

NORTH DAKOTA
Yes. The district attorney or other state attorney is responsible for enforcement of criminal provisions. N.D. Cent. Code sec. 12.1-14-04 (1976).

No provision under Human Rights Act.

OHIO
Yes. Under the public accommodations law, upon written complaint under oath, the Ohio Civil Rights Commission may initiate a preliminary investigation. If probable cause exists, a hearing will be held wherein "[t]he attorney general shall represent the commission." Ohio Rev. Code Ann. sec. 4112.05(B) (Page 1980). See also Ohio Rev. Code Ann. sec. 4112.10 (Page 1980).

There is no provision in the education code.

OKLAHOMA
Yes. For actions alleging an unlawful discriminatory practice under the public acommodations law, the Attorney General, or a member of the Human Rights Commission may file a complaint. Okla. Stat. Ann. sec. 25-1501(c) (West Supp. 1982). There is no specification of responsibility under the education code. See Okla. Stat. Ann. tit. 70, sec. 1210.201 (West 1972).

OREGON
Yes. Under the prohibition against discrimination in education, the State Board of Education and State Board of Higher Education have authority to enforce the law. Or. Rev. Stat. secs. 659.150(3), 659.155 (1981).

There is no state enforcement responsibility under the public accommodations law. See Or. Rev. Stat. sec. 30.670 (1981).

PENNSYLVANIA
Yes. "[T]he Attorney General or the Pennsylvania Human Relations Commission may secure enforcement of the order of the Commission or other appropriate relief . . . ." Pa. Stat. Ann. tit. 43, sec. 960 (Purdon Supp. 1983).

PUERTO RICO
There is no provision for a state enforcement authority under the Civil Rights Act. There is a Commission on Civil Rights which shall "seek with individuals and before the government authorities protection of the human rights and strict enforcement of the laws protecting such rights." P.R. Laws Ann. tit. 1, sec. 153(b) (1982).

The Commission "shall not have authority for adjudging individual cases or granting remedies, but may investigate concrete controversies that may throw light on problems of general importance for the enhancement of civil rights." P.R. Ann. tit. 1, sex. 155 (1982).

RHODE ISLAND

Yes. The Commission for Human Rights has enforcement responsibility under the public accommodations law. R.I. Gen. Laws sec. 11-24-4 (1981).

There is no provision under the education code. See R.I. Gen. Laws sec. 16-38-1 (1981).

SOUTH CAROLINA
No provision.

SOUTH DAKOTA
Yes. "The [Human Rights] Commission, a commissioner, a state attorney or the attorney general may file a charge." S.D. Comp. Laws Ann. sec. 20-13-29 (Supp. 1983).

TENNESSEE
Yes. The Human Development Commission has enforcement responsibility. See Tenn. Code Ann. sec. 4-21-104 (Supp. 1982).

TEXAS
Yes. The local prosecutor is responsible for any criminal action. See Texas Civ. Code sec. 6252-16(3) (1970).

"A political subdivision of this state may establish a formal procedure by ordinance or other action of the governing body for processing a charge of a discriminatory act. . . against an officer or employee of the political subdivision." Texas Civ. Code sec. 6252-16(2a)(a)(Supp. 1983).

UTAH
Yes. Enforcement responsibility lies with the attorney general. Utah Code Ann. sec. 13-7-4(b) (Supp. 1981).

VERMONT
Yes. The Commission on Human Rights has enforcement responsibility. Vt. Stat. Ann. tit. 13, secs. 1461 -- 1467 (1974).

VIRGINIA
No. There are a few provisions relating to responsibility they are: "The Attorney General shall give such advice and render such legal assistance as he deems necessary, when requested so to do by resolution adopted by a county, city or town school board, upon matters relating to the commingling of the races in the public schools of the state." Va. Code sec. 2.1-119 (1979).

"The Board of Supervisors may, by ordinance, establish a local commission of human rights which shall have the following duties: (1) To promote policies to ensure that all persons be afforded equal opportunity; (2) To serve as an agency for receiving, investigating and assisting in the resolution of complaints from citizens of the county regarding discriminatory practices and, with the approval of the board of supervisors, to seek, through appropriate enforcement authorities, prevention of or relief from such practices. Va. Code sec. 15.1-687.3 (Supp. 1983)

VIRGIN ISLANDS
No provision. There are statutory provisions allowing the Attorney General to revoke "business licenses" and allowing the Governor to revoke tax exemption status. See V.I. Code Ann. secs. 8 and 9 (1982).

WASHINGTON
Yes. Under the Law Against Discrimination, the Washington State Human Rights Commission has enforcement responsibility. See Wash. Rev. Code sec. 49.60.051 (1981) and Wash. Rev. Code sec. 49.60.230(1) (1981).

Under the criminal public accommodations law, the local prosecuting attorney is responsible. Wash. Rev. Code sec. 9.91.010 (1981).

WEST VIRGINIA
No provision.

WISCONSIN
Yes. The superintendent may promulgate rules necessary to state enforcement of pupil discrimination. Wis. Stat. Ann. 118.13 (West Supp. 1982).

WYOMING
No provision for state responsibility. The local prosecutor has enforcement responsibility under the public accommodations law. Wyo. Stat. sec. 6-4-611 (1977).

TABLE 8

DOES THE STATE CIVIL RIGHTS STATUTES SPECIFY SANCTIONS. IF SO, WHAT ARE THEY?

ALABAMA
No provision.

ALASKA
Yes. "A person, employer, labor organization or employment agency, who or which willfully engages in unlawful discriminatory conduct . . . , or willfully resists, prevents, impedes, or interferes with the commission or any of its authorized representatives in the performance of duty . . . , or who or which willfully violates an order of the commission, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction is punishable by fine of not more than $500, or by imprisonment in a jail for not more than 30 days, or both." Alaska Stat. sec. 18.80.270 (1974).

Also, "[i]n an action brought under this subsection, the court may grant relief as to any act, practice or policy of the defendant which is prohibited [as a violation civil rights] regardless of whether each act, practice or policy, with respect to which relief is granted, directly affects the plaintiff, so long as a class or members of a class of which the plaintiff is a member are or may be aggrieved or injured by the act, practice or policy. The court may enjoin any act, practice or policy which is illegal under [as a violation of civil rights] and may order any other relief, including the payment of money, that is appropriate." Alaska Stat. sec. 22.10.020(c) (1980).

AMERICAN SAMOA
No provision.

ARKANSAS
Yes. "Violation of this Act shall result in the impoundment of the State, County or City Tax Funds so allotted." Ark. Stat. Ann. sec. 17-2006 (1980).

ARIZONA
Yes. "If the court finds that the provisions . . . of

this chapter have been violated, the court may enjoin such violation and may impose a civil penalty on the respondent not to exceed three hundred dollars." Ariz. Rev. Stat. sec. 41-1472 (1974).

CALIFORNIA
Yes. Fundwithholding is authorized in the Government Code which prohibits "ethnic group" discrimination in any program or activity by an institution which receives financial assistance. Cal. Gov't Code sec. 11135-11137 (1980).

Requirements of nondiscrimination in instructional materials also require assurances of compliance prior to receiving state funds. Cal. Educ. Code sec. 250 (Supp. 1983). There is, in addition, a provision for review of complaints by community college districts (sec. 2621(b)(1)), and for monitoring compliance by local school districts Cal. Educ. Code sec. 260 (Supp. 1983).

COLORADO
Yes. "Any person who violates any of the provisions . . . for every such offense, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars to the person aggrieved thereby to be recovered in any court of competent jurisdiction in the county where said offense was committed; and also for every such offense such person is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than three hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. . ." Colo. Rev. Stat. sec. 24-34-602 (1982).

The commission may issue a cease and desist order. Colo. Rev. Stat. sec 24-34-306(9) (1982).

The Colorado civil rights "commission may order a respondent who has been found to have engaged in a discriminatory practice . . . to rehire, reinstate, and provide back pay . . . to make reports as to the manner of compliance with the order of the commission; and to take affirmative action, including the posting of notices setting forth the substantive rights of the public under this part 6." Colo. Rev. Stat. sec. 24-34-605 (1982).

CONNECTICUT
Yes. There are civil sanctions for violatons of the

civil rights laws. Conn. Gen. Stat. Ann. sec. 46a-99 (West Supp. 1983) (education provision); Conn. Gen. Stat. Ann. sec. 46a-86 (West Supp. 1983) (public accomodations provision).

For violations of the school discrimination law, the state board can order a local or regional school district to undertake a "remedial process," and may seek a court order compelling this, if necessary. Conn. Gen. Stat. Ann. sec. 10-4b(b) and (c) (West Supp. 1983).

DELAWARE
Yes. "Any person who . . . shall be found guilty of any unlawful practice prescribed by sec. 4504 of this title or who shall be found guilty of violating any provisions of any agreement or order executed or issued with 12 months prior to such violation shall be guilty of a misdemeaor and shall be fined not more than $500 or imprisoned for not more than 90 days, or both." Del. Code Ann. tit. 6, sec. 4515 (1974).

"Compliance with an order of the Chairman from which an appeal has not been taken as provided in sec. 4513 of this title, or of an agreement executed by a respondent may be enforced by a civil action in the Court of Chancery to compel specific performance of the order or agreement." Del. Code Ann. tit. 6, sec. 4516 (1974).

DISTRICT OF COLUMBIA
Yes. If it is determined that the respondent has engaged in discriminatory practices, the Commission may: issue a cease and desist order; require rehiring or upgrading of employees, with or without back pay; order respondent to pay compensatory damages; order respondent to pay attorney's fees; or order other appropriate affirmative actions. See generally, D.C. Code Ann. sec. 1-2553(a)(1)(A-F) (1981). Also, licenses or permits may be revoked under D.C. Code Ann. sec. 01-2531 (1981). Resisting or impeding the Office or Commission's investigation may result in imprisonment for not more than 10 days, a fine of not more than $300.00 or both. D.C. Code Ann. sec. 1-2528 (1981).

FLORIDA
No provision.

GEORGIA

No provision.

GUAM
Yes. The person who discriminates will be "liable in damages in an amount not less than $100.00 . . . ." Guam Civ. Code sec. 52 (1970).

"Any person who violates sec. 52 . . . shall be guilty of a misdemeanor and subject to a penalty of confinement for not more than thirty (30) days, or a fine of not more than five hundred dollars, or both, and in addition any type of business license . . . shall be subject to suspension by the court for not more than thirty (30) days." Guam Civ. Code sec. 54.1 (1970).

HAWAII
No provision.

IDAHO
Yes. Violation of the public accommodations law is a misdemeanor. Idaho Code sec. 18-7303 (1979).

Under the human rights law, a court stop the unlawful practice and order other remedies, including an award of employee reinstatement, back pay, lost wages and benefits, and up to $1,000 in punitive damages. Idaho Code sec. 67-5908(3) (1980).

ILLINOIS
Yes. The civil rights statute provides that: [u]pon finding a civil rights violation . . . the Commission . . . may provide for any relief or penalty identified in this section separately or in combination, by entering an order directing the respondent to: . . . cease and desist . . . . . pay actual damages . . . hire, reinstate or upgrade the complainant, with or without back pay . . . admit the complainant to a public accommodation . . . ." See Ill. Ann. Stat. ch. 68, para. 8-108(A-I) (Smith-Hurd Supp. 1983).

"In the case of a respondent who is a public official who violates [the public accommodation law, the commission may] . . . recommend to the department or agency in which the official is employed that such disciplinary or discharge proceedings as the Commission deems appropriate to be employed." Ill. Ann. Stat. ch. 68, para. 8-109(C) (Smith-Hurd Supp. 1983).

"Any school officer or other person who excludes or aids in excluding from the public schools, on account of color, any child who is entitled to the benefit of such school shall be guilty of a petty offense and shall be fined not less than $5 nor more than $100."

"No state aid claim may be filed for any district unless the clerk or secretary of the school board executes and files with the Superintendent of Public Instruction . . . a sworm statement that the district has complied with the requirements of 10-22.5 (Armstrong Act) in regard to the non-segregation of pupils on account of color, creed, race or nationality." Ill. Ann. Stat. ch. 122 sec. 18-12 (Smith-Hurd 1962).

INDIANA

Yes. "[I]f the commission finds a person has engaged in an unlawful discriminatory practice, it may cause to be served on such person an order requiring such person to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power to restore complainant's losses incurred . . . ." Ind. Code. Ann. sec. 22-9-1-6(k)(1) (Burns Supp. 1982).

IOWA

Yes. The commission can issue a cease and desist order and also order various types of remedial action including but not limited to:

"1) Hiring, reinstatement or upgrading of employees with or without pay . . . .

3) Admission of individuals to a public accommodation or an educational institution . . . [and] in addition such affirmative action as in the judgement of the commission will carry out the purposes of this chapter . . . ." These latter affirmative actions are limited to revocation of licenses and the like. Iowa Code sec. 601A.15(8)(a)(b) (West Supp. 1983).

The state board of public instruction may withdraw approval when educational standards are not met. Iowa Code sec. 257.25(11) (West Supp. 1983).

The educational standards statute is designed to establish educational standards that must be maintained by a school in order to be placed or approved. Iowa Code sec. 257.25 (West Supp. 1983).

KANSAS

Yes. Upon finding that a respondent has violated the Kansas acts against discrimination, the commission may issue a cease and desist order. It may also require affirmative action, "including but not limited to the hiring, reinstatement, or upgrading of employees [and] . . . the admission to and full and equal enjoyment of the goods, services, facilities, and accommodations offered by any respondent . . . ." Kan. Stat. Ann. sec. 44-1005 (1980).

"Any person, . . . [who] shall willfully violate an order of the commission, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment of not more than one (1) year, or by not more than five hundred dollars ($500), or by both . . . ." Kan. Stat. Ann. sec. 44-1013 (1980).

KENTUCKY

Yes. "If the commission [on human rights] determines that the respondent has engaged in an unlawful practice, the commission . . . shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. . . . (3) Affirmative action ordered under this section may include but is not limited to: (a) Hiring, reinstatement or upgrading of employes [sic] with or without back pay. . . . (c) Admission of individuals to a place of public accommodation. . . . (d) The extension to all individuals of the full and equal advantages, facilities, privileges and services of the respondent. (e) Reporting as to the manner of compliance. . . . (h) Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment, . . . and for other costs actually incurred by the complainant as a direct result of such unlawful practice." Ky. Rev. Stat. Ann. secs. 344.230(2), (3) (1983).

"No certificate of approval shall be issued by the board to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed." Ky. Rev. Stat. Ann. sec. 165A.360 (Supp. 1982). "The definition of a proprietary school shall not include the following: (a) A school or educational institution supported entirely or partly by taxation from either a local or state source; (b) a parochial, denomination, or eleemosynary school or institution . . . ." Ky. Rev. Stat. Ann. sec. 165A.310 (Supp. 1982).

LOUISIANA
Yes. Sanctions include civil remedies and fund withholding. See, La. Rev. Stat. Ann. 13:4791 (1968) and La. Rev. Stat. Ann. sec. 39:1412 (Supp. 1983).

MAINE
Yes. The Maine Human Rights Commission may apply to Superior Court for relief. On finding that unlawful discrimination occurred, the court will order remedies including "[a]n order to cease and desist from the unlawful practices specified in the order; . . . an order to pay to the complainant civil penal damages not in excess of $500 in the case of the first order under this Act against the respondent, not in excess of $1,000 in the case of a second such order against the respondent, and not in excess of $2,000 in the case of a third or subsequent such order against the respondent . . . ." Me. Rev. Stat. Ann. tit. 5, sec. 4613(B)(1)(7) (Supp. 1983).

MARYLAND
Yes. "If upon all the evidence, the hearing examiner [of the Commission on Human Relations] finds that the respondent has engaged in any discriminatory act . . . . [t]he hearing examiner shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the discriminatory acts and to take affirmative action to effectuate the purposes of the particular subtitle." Md. Ann. Code art. 49B, sec. 11 (1978).

Note, however, that a complaining party who maliciously brings an action is liable to fine and/or imprisonment. Md. Ann. Code art. 49B, sec. 12 (1978 and Supp. 1982).

MASSACHUSETTS
Yes. A pupil who claims a violation of the school attendance provision may recover, in tort, from the town or local school district. Mass. Gen. Laws Ann. ch. 76, sec. 16 (West 1982).

The Racial Imbalance Act provides for civil actions "commenced by the board or by or on behalf of any pupil to enforce" the Racial Imbalance Act. Mass. Gen. Laws Ann. ch. 71, sec. 37D (West 1982).

Any person residing in a school district which violates the special education law may seek the "necessary and appropriate injunctive or other relief" from court. Mass. Gen. Laws Ann. ch. 71B, sec. 6 (West 1982).

MICHIGAN
Yes. Remedies available to the complainant include, but are not limited to, money damages, hiring, admission, revocation of license, orders to cease and desist, and "other relief the commission deems appropriate." Mich. Comp. Laws Ann. sec. 37.2605(2) (a) through (k) (West Supp. 1983).

MINNESOTA
Yes. The hearing examiner may order the respondent to pay damages, including punitive damages in an amount not more than $1000.00. Also, the respondent may be required to take such affirmative action "as in the judgment of the examiner will effectuate the purpose of this chapter." Minn. Stat. sec. 363.071(2) (Supp. 1983).

If the respondent is subject to licensing or regulatory agencies, the license may be revoked or suspended. Minn. Stat. sec. 363.071(4) (Supp. 1983).

Every person who commits an unfair discriminatory act is guilty of a misdemeanor. Minn. Stat. sec. 363.101 (Supp. 1983).

The education code provides that any district separating, classifying or denying school privileges to any of its pupils on the basis of race, color, social position or nationality," shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation, or exclusion shall occur or continue." Minn. Stat. sec. 127.08 (1979).

MISSISSIPPI
No provision.

MISSOURI
Yes. "[T]he commission . . . shall . . . order . . . the respondent to cease and desist from the unlawful discriminatory practice and to take such affirmative action . . . as, in the judgment of the commission, will effectuate the purposes of this chapter, including an

award of actual damages and a requirement for a report on the manner of compliance." Mo. Ann. Stat. Ann. sec. 314.060(7) (Vernon Supp. 1983).

MONTANA

Yes. Upon finding an unlawful discriminatory practice, the commission may: "(1) . . . (a) prescribe conditions on the accused future conduct . . .; (b) require any reasonable measure to correct the discriminating practice and to rectify any harm, pecuniary or otherwise, . . . ; (c) require a report on the manner of compliance. (2) The order may not require payment of punitive damages." Mont. Code Ann. sec. 49-2-506 (1981).

"A person, educational institution . . . , either public or private, or a governmental entity or agency who or which willfully engages in an unlawful discriminatory practice prohibited by this chapter or willfully resists, prevents, impedes, or interferes with the commission . . . in the performance of its duty under this chapter or who or which willfully violates an order of the commission or willfully violates this chapter . . . is guilty of a misdemeanor and is punishable by a fine of not more than $500 or by imprisonment for not more than 6 months, or both." Mont. Code. Ann. sec. 49-2-601 (1981).

NEBRASKA
No provision.

NEVADA
Yes. The Equal Rights Commission has authority to "order the person to: 1) Cease and desist from the unlawful practice, 2) Restore all benefits and rights to which the aggrieved person is entitled including but not limited to rehiring, back pay . . . , annual leave time, sick leave . . . [and] other fringe benefits and seniority, in cases involving an unlawful employment practice." If the violator "fails to comply with the commission's order, the commission shall apply to the district court for an order compelling such compliance . . . ." If the district court upholds the commission's order, "the court shall award the aggrieved party actual damages for any economic loss and no more." Nev. Rev. Stat. sec. 233.170(3)(b) (1979).

NEW HAMPSHIRE

Yes. "Any person claiming to be aggrieved by an unlawful discriminatory practice may . . . file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof . . . . The attorney general may, in like manner, make and sign and file such complaint.

"In connection with the filing of such complaint, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. . . ."

"If, upon all the evidence at the hearing, the commission shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this chapter, the commission shall . . . issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, or the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as in the judgment of the commission, will effectuate the purpose of this chapter and including a requirement for report of the manner of compliance. Such cease and desist orders for affirmative relief may be issued to operate prospectively." N. H. Rev. Stat. Ann. sec. 354-A:9 (1966).

"Any person, employer, labor organization or employment agency, who or which shall wilfully resist, prevent, impede or interfere with the commission . . . or shall wilfully violate an order of the commission, shall be guilty of a misdemeanor if a natural person or guilty of a felony, if any other person. Procedure for the review of the order shall not be deemed to be such wilful conduct." N. H. Rev. Stat. Ann. sec. 354-A:12 (Supp. 1981).

NEW JERSEY

Yes. "If, upon all evidence at a hearing, the director shall find that the respondent has engaged in any unlawful employment practice or unlawful discrimination as defined in this act, the director shall . . . issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such

unlawful . . . discrimination and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership, in any respondent labor organization, or extending full and equal accommodations, advantages, facilities, and privileges to all persons, as, in the judgment of the director, will effectuate the purpose of this act, and including a requirement for report of the manner of compliance." N.J. Stat. Ann. sec. 10:5-17 (West Supp. 1983).

"Observance of an order of the director issued pursuant to the provisions of this act may be enforced by a civil action brought by the director in the Superior Court to obtain such relief as may be necessary to effectuate the terms of said order." N.J. Stat. Ann. sec. 10:5-19 (West 1976).

"Any person who shall willfully resist, prevent, impede or interfere with the Attorney General or any representative of the division in the performance of duty under this act . . . shall be guilty of a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than $500.00, or by both . . ." N. J. Stat. Ann. sec. 20:5-26 (West 1976).

The prohibition on discriminatory exclusion from public schools imposes a find and/or imprisonment in school board members who violates its terms. N.J. Stat. Ann. sec. 18:38-5.1 (West 1968).

NEW MEXICO

Yes. "If the commission finds from the evidence that the respondent has engaged in a discriminatory practice . . . the commission may require the respondent to pay actual damages . . . not to exceed one thousand dollars and to take such affirmative action as the commission considers necessary . . . ." N.M. Stat. Ann. sec. 28-1-11(E) (1978).

NEW YORK

Yes. Penalties vary according to which law has been invoked.

"Any person who shall violate [the civil rights law] . . . shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved theereby in any court of competent

jurisdiction in the county in which the defendent shall reside. In addition, any person who shall violate any of the provisions of the foregoing section shall be deemed guilty of a class A misdemeanor." N.Y. Civ. Rights Law sec. 40-d (McKinney Supp. 1982).

Anyone who violates the civil rights law "shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby . . . and such person . . . may also be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than ninety days, or both such fine and imprisonment." N.Y. Civ. Rights Law sec. 41 (McKinney 1976).

"A person who: 1. Excludes a citizen of this state, by reason of race, color, creed, national origin or previous condition of servitude . . . or from the equal enjoyment of any accommodation, facility or privilege furnished . . . by teachers and officers of common schools and public institutions of learning . . . [i]s guilty of a misdemeanor, punishable by fine of not less than fifty dollars nor more than five hundred dollars." N.Y. Civ. Rights Law sec. 44-a (McKinney 1976).

An unlawful discriminatory practice under the executive law gives rise to liability for "damages and such other remedies as may be appropriate . . . ." N.Y. Exec. Law sec. 297(9) (McKinney 1982). Under the executive law, sanctions can also include requiring a respondent who has engaged in an unlawful discriminatory practice "to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a guidance program . . . the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons . . . awarding of compensatory damages . . . requiring a report of the manner of compliance . . . ." N.Y. Exec. Law sec. 297(4)(c) (McKinney 1982).

There are also fines and jail sentences of up to five hundred dollars and/or one year, for interfering with the division of human rights or willfully violating its orders. N.Y. Exec. Law sec. 299 (McKinney 1982).

A nondiscrimination provision in the compulsory education law provides for criminal sanctions: "for the first offense by a fine not exceeding ten dollars or ten

days' imprisonment; for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment."

Finally, New York provides for funds withholding for violations of the compulsory education law: "The commissioner of education . . . may withhold one-half of all public school moneys from any city or district, which, in his judgment, willfully omits and refuses to enforce the provisions [of this law] . . . ." N.Y. Educ. Law sec. 3234 (McKinney 1981).

If the board of regents finds an "unfair educational practice" has been committed, it shall issue "an order requiring the respondent to cease and desist from such unfair educational practice, or such other order as they deem just and proper." N.Y. Educ. Law sec. 313(5)(i) (McKinney 1969).

NORTH CAROLINA
No provision.

NORTH DAKOTA
Yes. "A person is guilty of a class B misdemeanor" for violating the nondiscrimination law. N.D. Cent. Code sec. 12.1-14-04 (1976). A class B misdemeanor incorporates a "maximum penalty of thirty days' imprisonment, a fine of $500, or both . . . ." N.D. Cent. Code. sec. 12-1-32-01 (6) (Supp. 1981).

OHIO
Yes. Under the public accommodations law, injunctive relief is available to require a respondent to cease and desist from such unlawful discriminatory practice . . . " Ohio Rev. Code Ann. sec. 4112.05(G) (Page 1980). In addition, violations are misdemeanors of the third degree, which are punishable by fine (not more than five hundred dollars), imprisonment (not more than sixty days) or both. Ohio Rev. Code Ann. sec. 4112.99 (Page 1980). See also Ohio Rev. Code Ann. sec. 2929.21 (B)(3)(C)(3) (Page 1980).

There is no provision in the education code.

OKLAHOMA
Yes. On finding an unlawful discriminatory practices under the public accommodations law, state agencies may

terminate a contract "either absolutely or on condition that the respondent carry out a program of compliance . . . ." Okla. Stat. Ann. tit. 25, sec. 1604(1) (West Supp. 1982). Contracting state agencies may "assist the state . . . to refrain from entering into further contracts, or extensions or other modifications of existing contracts, with respondent . . . ." Okla. Stat. Ann. tit. 25, sec. 1604(2) (West Supp. 1982). Also upon petition of the Human Rights Commission the district court may issue injunctions. Okla. Stat. Ann. tit. 25, sec. 1506(b) (West Supp. 1982).

There is no sanction specified under the Education law. See Okla. Stat. Ann. tit. 70, sec. 1210.201 (West 1972).

OREGON

Yes. The prohibition against discrimination in education authorizes withholding of state funds. Or. Rev. Stat. sec. 659.155 (1981).

Under the public accommodations law, "[A]ll persons [discriminated against] . . . shall have a cause of action to recover compensatory and punitive damages . . . ." Or. Rev. Stat. sec. 30.680 (1981).

PENNSYLVANIA

Yes. The human relations commission has power to order a respondent to "cease and desist from such unlawful discriminatory practice and to take such affirmative action . . . as, in the judgment of the Commission, will effectuate the purpose of this act, and including a report of the manner of compliance. When the respondent is a licensee of the Commonwealth, the Commission shall inform the appropriate State licensing authority of the order with the request that the licensing authority take such action as it deems appropriate against such licensee . . . " Pa. Stat. Ann. tit. 43, sec. 959(f) (Purdon Supp. 1983).

"Any person who shall wilfully resist, prevent, impede or interfer with the Commission . . . or shall wilfully violate an order of the Commission, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), or to undergo imprisonment not exceeding thirty (30) days, or both, in the discretion of the court." Pa. Stat. An. tit. 43, sec. 961 (Purdon Supp. 1983).

PUERTO RICO
Yes. The civil rights act provides that "[a]ny person who shall . . . violate any of the provisions hereof shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in jail for a term of not less than thirty days nor more than ninety days, or by both penalties, in the discretion of the court." P.R. Laws Ann. tit. 1, sec. 14 (1982).

In addition, "[a]ny person who shall voluntarily disobey, hinder or obstruct the [Civil Rights] Commission . . . shall be punished by a fine of not more than $5,000 or by imprisonment for a term of not more than one year, or by both penalties, in the discretion of the Court." P.R. Laws Ann. tit. 1, sec. 161 (1982).

RHODE ISLAND
Yes. Under the public accommodations law, "[i]f the commission determines that the respondent has engaged or is engaging in [discrimination in a place of public accommodation], the commission may order respondent to cease and desist . . . hiring . . . reinstatement, or upgrading of employees with or without back pay . . . ." R.I. Gen. Laws secs. 11-24-4 (1981) and 28-5-24 (Supp. 1982). (The public accommodations statute, 11-24-4, refers to the fair employment practices act for enforcement provisions.)

There is no provision in the education code. See R.I. Gen. Laws sec. 16-38-1 (1981).

SOUTH CAROLINA
No provision.

SOUTH DAKOTA
Yes. "[T]he commission shall state its findings of fact and shall issue and cause to be served upon [the] respondent an order requiring such respondent to cease and desist from such discriminatory or unfair practice and to take such affirmative action, . . .as in the judgment of the commission shall effectuate the purposes of this charter." S.D. Codified Laws sec. 20-13-42 (1979).

TENNESSEE
Yes. "If the commission determines that the respondent

has engaged in a discriminatory practice, the commission shall . . . issue an order requiring the respondent to cease and desist . . . and to take such affirmative action as . . . will carry out the purposes of this chapter." Tenn. Code Ann. sec. 4-21-118(b) (1979).

"A person who willfully resists . . . or interferes with the performance of . . . the commission . . . is guilty of a misdemeanor and shall be fined not more than one hundred dollars ($100) or imprisoned for not more than thirty (30) days, or both." Tenn. Code Ann. sec. 4-21-123 (1979).

TEXAS

Yes. "A person who knowingly violates a provision of this act is guilty of a misdemeanor and upon conviction is punish- able by a fine of not more than One Thousand Dollars . . . or by imprisonment in the county jail for not more than one year or both." Texas Civ. Code sec. 6252-16(3) (1970).

Civil remedies inlcude "preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order may be instituted by the person aggrieved. . . . [T]he court . . . may allow the prevailing party, other than the state, a reasonable attorney's fee as part of the costs . . . ." Texas Civ. Code sec. 6252-16(2) (1970).

UTAH

Yes. "Any person who is denied the rights provided for in section 13-7-3 shall have a civil action for damages and any other remedy available in law or equity against any person who denies him the rights provided for in section 13-7-3 or who aids, incites or conspires to bring about such denial."
Utah Code Ann. sec. 13-7-4(c) (Supp. 1981).

VERMONT

Yes. "Any party who believes he is aggrieved by final order of the commission,including refusal to issue a complaint, may appeal . . . from the order of the commission to the county court of the county wherein the alleged unlawful discriminatory practice was committed. . . . The court may thereupon grant such temporary relief or restraining order as it considers just and proper. . . ." Vt. Stat. Ann. tit. 13, sec. 1467 (1974).

"A person who violates this chapter shall be fined not more than $5.00 or imprisoned not more than thirty days, or both." Vt. Stat. Ann. tit. 13, sec. 1453 (1974).

VIRGINIA
No provision.

VIRGIN ISLANDS
Yes. Whoever . . . violates any provision of the [civil rights] chapter, shall, for each and every such violation be . . . liable in actual damages, and in addition thereto, to punitive damages not to exceed $5,000 . . . and fined not more than $2,000 or imprisoned not more than one year, or both." V.I. Code Ann. tit. 10, sec. 7 (1982).

WASHINGTON
Yes. There is criminal liability under the Public Accommodations Law: "Every person who denies to any other person because of race, creed, or color, the full enjoyment of any . . . public accommodation . . . shall be guilty of a misdemeanor." Wash. Rev. Code sec. 9.9.010(2) (1981).

There are civil penalties under the Law Against Discrimination. "Any person . . . injured . . . shall [sue] . . . to enjoin further violations, to recover the actual damages sustained by him, or both, together with the cost of suit including reasonable attorney's fees or any other remedy authorized by this chapter or the United States Civil Rights Act of 1964 . . . ." Wash. Rev. Code sec. 49.60.030(2) (1981).

If the Human Rights Commission determines that the respondent has engaged in unfair discriminatory practices, it may require the respondent "to cease and desist from such unfair practice and to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees . . . ." Wash. Rev. Code secs. 49.60.250 (1981).

WEST VIRGINIA
No provision.

WISCONSIN
Yes. "Any members of a school board who votes to exclude from any public school any child on account of

sex, race, religion, physical condition, developmental disability as defined in sec. 51.0(s) or national origin may be fined not more than $100 or imprisoned not less than 30 days nor more than 6 months or both . . . ." Wis. Stat. Ann. 118.13 (West Supp. 1982).

WYOMING

Yes. "Any person who shall wilfully violate any provisions of this act [the public accommodations law] shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100.00) or imprisoned in the county jail for a term not to exceed ninety (90) days, or both." Wyo. Stat. sec. 6-4-611 (1977).